

STATE OF HAWAII  
LAND USE COMMISSION  
Meeting held on February 5, 2025  
Commencing at 10:00 a.m.  
Held at  
Leiopapa A Kamehameha  
State Office Tower  
235 S Beretania Street, Room 405  
Honolulu, Hawaii 96813

I. CALL TO ORDER

II. A89-651 HASEKO ('EWA) LNC. (O'AHU)  
To consider Petitioner's 2024 Motion for Approval of Job Credits as required by the Land Use Commission ("LUC") Decision and Order issued on October 17, 1990. Files pertaining to this docket are available at:

Parcel is identified as TMK No. 9-1-12:5 (por.), 6 (por.), and 23 (por.), approximately 403.008 acres located in Honouliuli, 'Ewa, O'ahu, State of Hawaii.

III. APPROVAL OF MINUTES FOR JANUARY 22, 2025

IV. TENTATIVE MEETING SCHEDULE

V. STATUS REPORT BY THE LAND USE DEVELOPMENT COORDINATOR

VI. DECISION ON COMMISSION'S POSITION REGARDING SB28

RELATING TO THE LAND USE COMMISSION. Specifies that a simple majority of affirmative votes of the members of the LUC present at a meeting and qualified to vote is required for any boundary amendment.

VII. DECISION ON COMMISSION'S POSITION REGARDING  
SB36

RELATING TO THE LAND USE COMMISSION. Requires the LUC to reclassify lands that are designated for urban growth under a county general plan or county development plan as being in the urban district at the request of the county.

VIII. DECISION ON COMMISSION'S POSITION REGARDING  
SB1079 AND HB502

RELATING TO LAND USE. Temporarily allows each county, by resolution of its county council, to petition for the redistricting of land from an agricultural district to a rural district through the LUC's declaratory ruling process. Effective 7/11/2026. Sunsets 6/13/2029.

IX. DECISION ON COMMISSION'S POSITION REGARDING  
SB1114

RELATING TO HOUSING. Authorizes large landowners to petition the LUC to allow the development of elderly housing on portions of agricultural lands.

X. DECISION ON COMMISSION'S POSITION REGARDING  
SB1157

RELATING TO LAND USE COMMISSION. Allows the counties to amend district boundaries involving land areas greater than fifteen acres without appearing before the LUC if the affected lands are included in the County General Plan or County Development Plan. Requests the LUC to update the digital state land use district maps and to encourage transit-oriented development that preserves the character of the State's rural areas.

BEFORE:

PARTICIPANTS

LUC COMMISSIONERS:

Dan Giovanni, Chairman

Michael Yamane

Mel Kahele

Brian Lee

Ken Hayashida

Bruce U'u

Myles Miyasato (via Zoom)

Nancy Carr Smith

LUC STAFF:

Daniel Orodenker, Executive Officer

Arnold Wong, Land Use Development Coordinator

Scott Derrickson, Chief Planner

Martina Segura, Planner

Ariana Kwan, Chief Clerk

Miranda Steed, Esq., Deputy Attorney General

OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT

("OPSD"):

Alison Kato, Esq., Deputy Attorney General

Mary Alice Evans, OPSD Director

Aaron Setogawa, Senior Planner

PARTICIPANTS CONTINUED

DEPARTMENT OF PLANNING AND PERMITTING ("DPP"), CITY  
AND COUNTY OF HONOLULU:

Pono Arias, Esq., Deputy Corporation Counsel

Dina Wong, Chief Planner

Franz Kraintz, Chief Planner

A89-651 Haseko ('Ewa) Inc.:

Curtis Tabata, Esq.

Benjamin Matsubara, Esq.

Daniel Sandomire, Vice President of Development

Peter Kwan, Vice President of Site Development

Kelly Uwaine, In-House Counsel

Daniel Lum, Senior Manager of Development

PUBLIC TESTIMONY:

Healani Sonoda-Pale

Bianca Isaki

Lisa Enanoria

Steven Lee Montgomery

Wayne Tanaka

Chuck Flaherty

Tara Rojas

1 CHAIR GIOVANNI: Okay. It is 10:00. And  
2 I'd like to call this meeting to order. Aloha mai  
3 kakou. Good morning everyone. This is the February  
4 5, 2025, Land Use Commission meeting. This is a  
5 hybrid meeting, which is physically located at the  
6 Leiopapa A. Kamehameha State Office Tower, 235 South  
7 Beretania Street, Room 405, Honolulu, Hawaii 96813.  
8 This meeting is open to the public.

9 Court reporting transcriptions are being  
10 done from the Zoom recording of this meeting. For  
11 all meeting participants, I'd like to stress the  
12 importance of speaking slowly, clearly, and directly  
13 into your microphone. And please, before speaking  
14 each time state your name and identify yourself for  
15 the record.

16 This is a hybrid meeting, and please be  
17 aware that all meeting participants are being  
18 recorded on the digital record of this Zoom meeting,  
19 which will be posted on YouTube and used for court  
20 reporting purposes. Your continued participation is  
21 your implied consent to be part of the public record  
22 of this event. If you do not wish to be part of the  
23 public record, you should exit the meeting now.

24 Please note that the Q&A feature on the  
25 Zoom will only be monitored for signing up for

1 public testimony. All other communications will not  
2 be addressed or part of the meeting record.

3 Communications can also be emailed to our office at  
4 DBEDT.luc.web@hawaii.gov

5 I will also share with all participants  
6 that we'll be taking break breaks from time to time,  
7 normally five minutes every hour. We'll also be  
8 taking a 30 minute break for lunch today.

9 My name is Dan Giovanni, and I have the  
10 pleasure to serve as the LUC chair. So we currently  
11 have nine seated commissioners on the Commission.  
12 Along with me today is Commissioner Michael Yamane.  
13 He's from island of Kauai. Commissioner Mel Kahele,  
14 Commissioner Brian Lee are from Oahu. Commissioner  
15 Myles Miyasato is joining us by Zoom.

16 Mr. -- Commissioner Miyasato, would you  
17 please clarify where you are and that you are alone  
18 in your room, wherever that is?

19 COMMISSIONER MIYASATO: Yes. I'm at my  
20 residence on the Big Island, and I am alone.

21 CHAIR GIOVANNI: Thank you so much.  
22 Commissioner Carr Smith is from the Island of  
23 Hawaii. Commissioner Bruce U'u is from the Island  
24 of Maui. Commissioner Hayashida has recused himself  
25 from the agenda item this morning, which is docket

1 -- doing with business with docket number A89-651,  
2 and he'll join us later in the meeting.

3 Commissioner Kamakea-'Ohelo was also excused today  
4 due to a family emergency.

5 So we have in attendance today by in  
6 present and by Zoom seven of the nine commissioners,  
7 and that will change from day to day -- hour to  
8 hour, I say. So commissioners, I'm planning a hard  
9 stop at today's meeting at 4:00. Does anybody have  
10 a need to exit the meeting before 4:00?

11 Commissioner U'u.

12 COMMISSIONER U'U: Yeah. I need to leave  
13 at 2:00.

14 CHAIR GIOVANNI: 2:00, thank you.

15 COMMISSIONER KAHELE: Chair, I -- I also  
16 have a scheduled meeting -- another meeting at 2:00.

17 CHAIR GIOVANNI: Thank you.

18 COMMISSIONER YAMANE: Mr. Chair, I'll be  
19 leaving sometime after lunch.

20 CHAIR GIOVANNI: Okay. Thank you. So it  
21 looks like we'll be close to quorum level. Quorum  
22 for our business after lunch will be when these  
23 gentlemen have to depart is five people. We'll see  
24 where we stand at that time.

25 I'm also for -- excuse me. This is a new



1 one. If someone over the age of 18 is in attendance  
2 with a commissioner -- oh, got it. So we don't have  
3 that. All right.

4 Also in attendance today are the LUC  
5 Executive Officer Daniel Orodenker, LUC Land Use  
6 Development Coordinator Arnold Wong, LUC Chief  
7 Planner Scott Derrickson, LUC Staff Planner Martina  
8 Segura, LUC Chief Clerk Ariana Kwan, and to my  
9 left, LUC Deputy Attorney General Miranda Steed.  
10 Again, court reporting transcriptions are being done  
11 from the Zoom recording.

12 The chair is going to take one agenda item  
13 out of order, and that is the adoption of minutes  
14 from our meeting of January 22nd. So let us go to  
15 that -- recognized as agenda item 3. That's the  
16 adoption of minutes from our meeting of January 22,  
17 2025.

18 Ms. Kwan, has there been any written  
19 testimony submitted on the January 22nd minutes?

20 MS. KWAN: No, Mr. Chair.

21 CHAIR GIOVANNI: Are any members of the  
22 public signed up to testify in the adoption of the  
23 minutes from January 22nd?

24 MS. KWAN: Seeing none in the Q&A feature,  
25 Mr. Chair.

1 CHAIR GIOVANNI: Thank you. And none  
2 present in the room have signed up?

3 MS. KWAN: None in the room, Chair.

4 CHAIR GIOVANNI: Thank you.

5 Commissioners, are there any corrections  
6 or comments on the minutes? And if not, is there a  
7 motion to adopt the minutes?

8 COMMISSIONER U'U: I'll make a motion to  
9 adopt the minutes.

10 CHAIR GIOVANNI: Commissioner U'u moves to  
11 adopt the minutes. Do I have a second?

12 COMMISSIONER CARR SMITH: Second.

13 CHAIR GIOVANNI: Second by Commissioner  
14 Carr Smith. All in favor of adoption of minutes,  
15 please signify by saying aye. Any opposed? None.  
16 Thank you. The minutes are adopted.

17 We'll now return to the second agenda  
18 item. This -- this order of business is -- pertains  
19 to docket number 8 -- pardon me -- A, letter A, 89-  
20 651, Haseko ('Ewa) Incorporated. This agenda item  
21 is to consider the petitioner's motion for approval  
22 of job credits as required by the Land Use  
23 Commission D&O issued on October 17, 1990.

24 This time, I'd like the parties to  
25 identify themselves for the record, starting with

1 petitioner.

2 MR. TABATA: Thank you, Chair. Curtis  
3 Tabata. Good Morning, Chair Giovanni, Vice Chair  
4 Yamane, Members of the Commission, Curtis Tabata and  
5 Benjamin Matsubara for the petitioner Haseko ('Ewa)  
6 Inc. Also present today from Haseko at the table  
7 with me is our Vice President of Development Daniel  
8 Sandomire and in-house counsel Kelly Uwaine.  
9 Sitting behind us is Vice President of Site  
10 Development Peter Kwan and Site Manager of  
11 Development Daniel Lum.

12 CHAIR GIOVANNI: Mr. Tabata, is Mr.  
13 Sandomire planning to provide any testimony today?

14 MR. TABATA: We're not planning on it,  
15 Chair. He's just here as a resource, as is everyone  
16 else.

17 CHAIR GIOVANNI: Okay. So if we come to a  
18 point where we ask to ask them questions, I'll swear  
19 them in at the time.

20 MR. TABATA: Yes. Thank you.

21 CHAIR GIOVANNI: Thank you very much.  
22 From the County?

23 MR. ARIAS: Morning, Chair. Good morning  
24 -- good morning, Chair, and on Zoom.

25 CHAIR GIOVANNI: Very good.

1 MR. ARIAS: Good morning, Chair,  
2 Commissioners. Pono Arias, Deputy Corporation  
3 counsel, on behalf of the City and County of  
4 Honolulu Department of Planning and Permitting.  
5 Dina Wong and Franz Kraintz from the Department are  
6 also online.

7 CHAIR GIOVANNI: Thank you very much. If  
8 any of your colleagues are going to testify, I'll  
9 swear them in at the time.

10 MR. ARIAS: Very well.

11 CHAIR GIOVANNI: From the OPSD.

12 MS. KATO: Good morning, Chair,  
13 Commissioners. Alison Kato, Deputy Attorney General  
14 for the Office of Planning and Sustainable  
15 Development. Also here is Mary Alice Evans,  
16 Director of OPSD, and Aaron Setogawa, planner at  
17 OPSD. Thank you.

18 CHAIR GIOVANNI: Do Ms. Evans or -- or  
19 Aaron plan to testify today?

20 MS. KATO: No, Chair.

21 CHAIR GIOVANNI: Okay. Very well.

22 So I'd like to go over the reimbursement  
23 policy, Mr. Tabata. Have you reviewed HAR section  
24 1515-45.1 regarding reimbursement of hearing  
25 expenses?

1 MR. TABATA: Yes, we have, and we will  
2 comply.

3 CHAIR GIOVANNI: Thank you. At this time,  
4 I'd like to identify any potential disclosures and  
5 conflicts of interest. So in accordance with HRS  
6 84-14, commissioners are not allowed to take any  
7 official action affecting a business in which they  
8 or a member of the family has a financial interest.  
9 They must therefore recuse themselves from this  
10 matter if there is any benefit, monetary or  
11 otherwise, to themselves or members of their family.

12 Also, in accordance with the legal ethical  
13 standards, commissioners should disclose any  
14 relationship -- business, social, or otherwise --  
15 that they may have with the petitioner or its  
16 representatives or any of the other parties in this  
17 proceeding that may give rise to the allegation of  
18 bias or impropriety.

19 So I have stated earlier that Commissioner  
20 Hayashida has recused themselves from this agenda  
21 item. So Commissioners, any of you have any other  
22 disclosures or conflicts of interest you'd like to  
23 make at this time? Seeing none, we will proceed.

24 Let me briefly explain the procedures for  
25 today. First, I will recognize the written public

1 testimony that has been submitted on this matter.  
2 Next, I will call for members of the public who wish  
3 to provide oral testimony on this matter. The  
4 petitioner will then be called upon to make  
5 presentation in support of his motion. The  
6 petitioner's presentation I will -- at the  
7 petitioner's -- after the petitioner's presentation,  
8 I will ask the county and their state to present  
9 their comments.

10 The commissioners will have an opportunity  
11 to ask questions of the parties at the conclusion of  
12 each of their presentations. I will then reopen the  
13 floor for public testimony and additional oral  
14 testimony on this matter. The parties will be given  
15 an opportunity for closing arguments. Finally, the  
16 Commission will deliberate on the matter based on  
17 the testimony and evidence presented.

18 Chair would like to remind everyone I will  
19 be calling for short breaks, normally five minutes  
20 per hour. Does anybody have a comment or an  
21 objection to the procedure? Mr. Tabata.

22 MR. TABATA: No comment or objection.

23 CHAIR GIOVANNI: Thank you. City and  
24 County of Honolulu, any objection?

25 MR. ARIAS: No comment or objection.

1 CHAIR GIOVANNI: Ms. Kato?

2 MS. KATO: None. Thank you.

3 CHAIR GIOVANNI: Very good. As stated on  
4 today's agenda, please be informed that the relevant  
5 records and documents pertaining to this matter can  
6 be accessed for review on the LUC website at  
7 <https://luc.hawaii.gov/a89-651>.

8 Public testimony. I'll now recognize  
9 written public testimony submitted in this matter.  
10 Ms. Kwan, has there been any written testimony  
11 submitted on this matter?

12 MS. KWAN: Yes, Mr. Chair. We received  
13 two on February 3rd, one on February 4th, all posted  
14 on the website.

15 CHAIR GIOVANNI: Thank you very much. Ms.  
16 Kwan, is there any members of the public that wish  
17 to testify on this matter?

18 MS. KWAN: If anyone on the Zoom would  
19 like to provide oral testimony on this item, please  
20 use the Q&A feature now. Seeing none, Chair.

21 CHAIR GIOVANNI: Thank you.

22 Mr. Tabata, will you please provide your  
23 presentation?

24 MR. TABATA: Thank you, Chair. Curtis  
25 Tabata for Petitioner. Haseko is here today to ask

1 the Commission to approve 374.78 job credits. Two  
2 similar motions in 1994 and 2022 have been granted  
3 by the Commission approving 575.22 job credits. So  
4 if our motion today is approved, that will give us a  
5 total of 950 job credits, which will allow Haseko to  
6 build up to 950 hotel and hotel condominium units at  
7 Haseko's Ocean Pointe and Hoakalei project.

8 Haseko's Ocean Pointe and Hoakalei project  
9 is located at Ewa Beach, Oahu, and is comprised of  
10 1,100 acres and includes residential, light  
11 industrial, commercial, retail, visitor  
12 accommodations, a recreational lagoon, golf course,  
13 district park, childcare center, and a public  
14 elementary school. I'm just providing this  
15 background information, because this -- that project  
16 is -- is the underlying matter that concerns our job  
17 credits motion.

18 So the Ocean Pointe and Hoakalei project  
19 is permitted to include up to 4,850 housing units,  
20 of which approximately 82 percent have been built  
21 and sold to individual homeowners. The visitor  
22 accommodation component of the project includes up  
23 to the 950 hotel and hotel condominium units that I  
24 mentioned.

25 Now, shifting to the job credits,



1 condition 1 of our LUC decision and order requires  
2 that we obtain one job credit for each hotel or  
3 hotel condominium unit that we intend to build.  
4 Therefore, we need 950 job credits to build the 950  
5 hotel units.

6 Now, the process for obtaining job credits  
7 starts with accrued job credits that results from  
8 these math formulas that are applied to categories  
9 that are listed in condition one that include non-  
10 tourism related construction hours, facility square  
11 footage, job training, and investments.

12 Okay. So these accrued job credits that  
13 we keep track of are required to be reported in  
14 Haseko's written annual reports to the LUC. Once  
15 these -- once the reported job credits -- well,  
16 reported job credits become approved job credits  
17 after the Commission provides its approval in  
18 motions like the one we are hearing today. And the  
19 approved job credits is a precondition to obtaining  
20 the building permit. So that's why we need job  
21 credits that are approved by the LUC. And so far,  
22 the Commission has approved 575.22 job credits.

23 Today, we are asking the Commission to  
24 approve the remaining 374.78 job credits which are  
25 based upon 2,372.3 investment related job credits

1 that were reported for years 2022 and 2023. These  
2 reported job credits are derived from an investment  
3 of \$118,615,000 in a startup business called Wai Kai  
4 Commercial Development, LLC, which was used to  
5 develop the commercial center called Wai Kai.

6 Wai Kai is a new concept for a commercial  
7 center that is anchored by the Wai Kai Wave, the  
8 first stationary deep water surf wave in Hawaii that  
9 caters to all skill levels with adjustable wave  
10 settings. Built around the Wai Kai Wave are  
11 restaurants, retail lagoon activities, and 80,000  
12 square feet of community gathering space for  
13 festivals, farmers markets, and food trucks.

14 In conclusion, this annual process of  
15 reporting accrued job credits based on actual  
16 construction hours, built facilities, and  
17 contributions and investments, together with the  
18 motions to approve job credits has been an over 30  
19 year journey for Haseko. With this final piece of  
20 the puzzle, Haseko hopes to complete its vision for  
21 Ocean Pointe and Hoakalei.

22 We would like to thank the Hawaii Regional  
23 Council of Carpenters, the Pacific Resource  
24 Partnership, and Ewa Beach resident Mitchell  
25 Tynanes for their written testimony in support of

1 our motion. And thank you to the LUC staff, the  
2 Office of Planning and Sustainable Development, and  
3 the Department of Planning and Permitting for  
4 reviewing and recommending approval of our motion,  
5 and to the Land Use Commission for taking the time  
6 to consider our request.

7 That concludes my presentation.

8 CHAIR GIOVANNI: Thank you, Mr. Tabata.  
9 Commissioners, any questions for Mr. Tabata at this  
10 time? Seeing none. Okay. We'll move on to OPSD.

11 MS. KATO: Thank you. Alison Kato, the  
12 Office of Planning and Sustainable Development  
13 supports approval of petitioner's motion for  
14 approval of job credits. And you know, the  
15 situation was already described by petitioner, so I  
16 won't go over it again. But after review of  
17 petitioner's motion and supporting documentation and  
18 meeting with petitioner to discuss the same, OPSD is  
19 satisfied with petitioner's representations and  
20 calculation of job credits.

21 And OPSD finds that petitioner has  
22 complied with all of the requirements and  
23 restrictions set out in the Commission's D&O for  
24 approval of the requested 374.78 job credits. Based  
25 on this, OPSD recommends approval and note that if

1 -- we just want to note that if approved condition  
2 one of the 1990 D&O as amended will be fully  
3 satisfied and petitioner will be able to begin  
4 construction of up to 950 units. We're available  
5 for any questions. Thank you.

6 CHAIR GIOVANNI: Thank you, Ms. Kato.  
7 Commissioners, any questions for OPSD?  
8 Seeing none, thank you. City and County of  
9 Honolulu, do you have any comment or presentation to  
10 make at this time?

11 MR. ARIAS: Thank you, Chair. Pono Arias.  
12 No presentation. The City stands on the written  
13 comments it provided and has no objections to the  
14 LUC granting this motion. Thank you.

15 CHAIR GIOVANNI: Thank you very much.  
16 Commissioners, any questions or comments for City  
17 and County of Honolulu? Commissioner U'u.

18 COMMISSIONER U'U: Good morning. And I  
19 just wanted to make mention that I'm from Maui. So  
20 when we -- we -- this is a great example of a good  
21 developer. So I watched the video of the last  
22 meetings that you guys did. I -- I've listened to  
23 the testimony. I've read through almost everything  
24 that was given to me.

25 And you know, for me at the time and place

1 where I'm -- I am on Maui, I always feel like we got  
2 to -- we have -- we should have the ability to pick  
3 and hand pick good developers that reflect --  
4 reflective of when people have the bad developer  
5 concept. You guys are completely the opposite of  
6 that.

7 I just wanted to make that note. You guys  
8 are a great example of a good developer, and at  
9 times that's missing. So I applaud you for your  
10 efforts. I thank you for being patient. I've never  
11 seen a condition -- a condition number 1 in my life  
12 until I was here. And I applaud -- applaud your  
13 efforts.

14 I would love to make a motion to approve,  
15 if --

16 CHAIR GIOVANNI: It's on a little bit  
17 early, but I will give you the opportunity. I will  
18 give you the opportunity --

19 COMMISSIONER U'U: Okay. Thank you.

20 CHAIR GIOVANNI: -- to make it at the  
21 appropriate time. But I will add my personal  
22 comment. Commissioner U'u, I -- I remember the  
23 hearing the last time we heard them on job credits.  
24 And it was an incredible attendance by community  
25 people who live in that area and who had benefited

1 from this development and who spoke so favorably of  
2 the -- of the work that had been done by Haseko. So  
3 I echo Commissioner U'u's comments. Thank you.

4 Okay. At this time, I'd like to call on  
5 the staff, the LUC staff who have reviewed the --  
6 the petition and the motion and -- for their  
7 recommendation to Commission on this. So Ms.  
8 Segura, do you have something?

9 MS. SEGURA: Hi. This is Martina Segura  
10 for the record. I prepared the staff report and got  
11 it approved for submittal on January 30, 2025. So  
12 that's when it was posted to the Land Use Commission  
13 website for public review.

14 After review of the motion and the  
15 exhibits, staff suggests approval of the -- of the  
16 motion in front of us. And that's for the request  
17 for 374.78 startup job credits.

18 CHAIR GIOVANNI: Thank you, Ms. Segura.  
19 Commissioners, any question for staff?

20 COMMISSIONER CARR SMITH: I had one quick  
21 question, please, for whoever.

22 CHAIR GIOVANNI: Commissioner Carr Smith.

23 COMMISSIONER CARR SMITH: Can you just  
24 clarify for me? It's a lot of numbers involved  
25 here. With approval of these credits, does that

1 completely satisfy condition 1?

2 MS. SEGURA: Yes. So according to  
3 condition 1, there's a total of 950 job credits  
4 needed to begin development of the hotel portion of  
5 the project.

6 COMMISSIONER CARR SMITH: Thank you.

7 CHAIR GIOVANNI: Mr. Tabata, you concur  
8 with that?

9 MR. TABATA: Yes, sir. I concur.

10 CHAIR GIOVANNI: This is -- so in other  
11 words, this is the last time you're coming to the  
12 Commission to ask for approval of job credits?

13 MR. TABATA: Well, I always want to  
14 return, Chair. But I -- I believe this is it.

15 CHAIR GIOVANNI: For this purpose.

16 MS. KWAN: I think so.

17 CHAIR GIOVANNI: Okay. Great. Thank you.  
18 All right. So commissioner, any questions for any  
19 of the parties? If not, I'll return to public  
20 testimony one more time. Ms. Kwan, do a second  
21 round of public testimony? Are any members of the  
22 public wish to provide new additional testimony at  
23 this time?

24 MS. KWAN: Yes, Mr. Chair. We have  
25 Healani Sonoda-Pale on the Zoom, who would like to

1 give oral testimony. I'll promote her now.

2 CHAIR GIOVANNI: Thank you. Let me know  
3 when she's there.

4 MS. KWAN: Healani, can you give me a mic  
5 check?

6 MS. SONODA-PALE: Yeah. Hi. Aloha.

7 CHAIR GIOVANNI: Ms. Pale, could you  
8 please state your name and address for the record,  
9 and then I'll swear you in.

10 MS. SONODA-PALE: Sure. My name is  
11 Healani Sonoda-Pale. My address is 6119 Kawekiu  
12 Place, Honolulu, Hawaii 96821.

13 CHAIR GIOVANNI: Thank you very much. Do  
14 you swear the testimony you're about to give will be  
15 the truth?

16 MS. SONODA-PALE: Yeah. To my  
17 understanding, it is. Yes, it's public knowledge.

18 CHAIR GIOVANNI: But whatever you're going  
19 to testify to, in your mind, it's the truth? Yes.  
20 So please proceed.

21 MS. SONODA-PALE: Yes.

22 CHAIR GIOVANNI: You have two minutes.

23 MS. SONODA-PALE: Okay. So I -- aloha.  
24 I'm actually testifying on behalf of Ka Lahui  
25 Hawaii, which is a native initiative for self-



1 determination and self-governance. We are in strong  
2 opposition to granting job credits or financial  
3 incentives to Haseko.

4           We do not believe that we should reward  
5 corporations that have repeatedly harmed our  
6 environment, violated cultural protections, and  
7 misled the community. Haseko has a long history of  
8 failing to uphold environmental responsibility. The  
9 most glaring is the -- the abandoned promise to the  
10 Hoakalei Marina and the landlocked lagoon.

11           But I want to focus, since I only have two  
12 minutes, on the desecration of Native Hawaiian  
13 burials. Haseko's disregard for cultural heritage  
14 is another reason they should not be rewarded with  
15 job credits. In 2007, during excavations of over 60  
16 Native Hawaiian burials -- that's 60 Native Hawaiian  
17 kupuna -- were disturbed on land where their resort  
18 and residential development was being built.

19           This caused immense pain to the Kanaka  
20 Maoli community as the remains of the ancestors were  
21 treated as obstacles, rather than sacred artifacts  
22 deserving of respect. The treatment of these  
23 remains violated traditional Hawaiian values, raised  
24 serious concerns about whether proper consultation  
25 with cultural experts had taken place before

1 construction.

2           Instead of prioritizing cultural  
3 preservation, Haseko's development has repeatedly  
4 forced the community to fight for protection of  
5 their ancestors after damage has -- was already  
6 done. This pattern of disregard shows that they are  
7 not responsible stewards of our land.

8           Our taxpayer fund should not reward bad  
9 corporate behavior. Granting job credits to Haseko  
10 would be sending the wrong message that corporations  
11 can damage the environment, desecrate cultural  
12 sites, and be rewarded with taxpayer-funded  
13 benefits. Haseko time and time again has  
14 demonstrated -- and this is over decades of their  
15 interactions with the Ewa community -- that that --  
16 their priority is profit, not environmental  
17 sustainability, cultural respect, or long-term  
18 community well-being.

19           If the state is to grant job credits, they  
20 should be reserved for companies that uphold ethical  
21 development, cultural integrity, and environmental  
22 responsibility, not corporations with a history of  
23 deception and harm. And just -- and that's my final  
24 thing on -- on Haseko.

25           We all know about their development at Wai

1 Kai. That lagoon that was created is actually --  
2 has actually -- is part of the damage that they've  
3 done to our -- our water table. They've actually  
4 cracked the water table, and that is unacceptable to  
5 me. They were instrumental in destroying multiple  
6 cultural sites in that area in One'ula. And they  
7 are -- have not been responsible when it comes to  
8 protecting that is what -- what is most sacred to us  
9 as Kanaka Maoli.

10 Thank you.

11 CHAIR GIOVANNI: Thank you very much for  
12 your testimony and -- and for you taking time to  
13 come to us today.

14 So commissioners, any -- well, let me go  
15 to petitioner first. Do you have any comments or  
16 questions on this testimony?

17 MR. TABATA: No questions, Chair.

18 CHAIR GIOVANNI: City and County of  
19 Honolulu, do you have any comments or questions for  
20 this witness?

21 MR. ARIAS: Hi. Pono Arias. No comments  
22 or questions.

23 CHAIR GIOVANNI: Thank you. OPSD, any  
24 comments or questions for this witness?

25 MS. KATO: Alison Kato. No questions.

1 Thank you.

2 CHAIR GIOVANNI: Thank you.

3 Commissioners, any comments or questions for this  
4 witness? Seeing none, thank you very much for being  
5 -- again, for being here today.

6 Ms. Kwan, is there anybody else that have  
7 signed up to testify?

8 MS. KWAN: If anyone on the Zoom would  
9 like to testify, please use the Q&A feature now. I  
10 see Bianca Isaki raising her hand. I'm assuming  
11 it's for testimony. I'll promote her now.

12 CHAIR GIOVANNI: Thank you.

13 MS. ISAKI: Good morning. I hope it's  
14 okay. My camera's not working very well today. I'd  
15 just like to testify on the first item on the Haseko  
16 job credits because I understand --

17 CHAIR GIOVANNI: Yeah, one second.

18 MS. KWAN: One second.

19 CHAIR GIOVANNI: One second.

20 MS. ISAKI: Oh, sorry.

21 CHAIR GIOVANNI: So Ms. Isaki, please  
22 state your name and affiliation and address for the  
23 record. Then I'll swear you in, and then you can  
24 testify.

25 MS. ISAKI: Oh, thank you. Sorry. Bianca

1 Isaki. I'm testifying as an individual. I live in  
2 Kaneohe. My address is 46379 Kumoo Loop.

3 CHAIR GIOVANNI: So Ms. Isaki, do you  
4 swear the testimony you're about to give will be the  
5 truth?

6 MS. ISAKI: Yes.

7 MR. ARIAS: So please proceed. This is on  
8 the agenda item for Haseko only, so please proceed.  
9 You have two minutes.

10 MS. ISAKI: Yeah. Thank you. And I'll be  
11 brief. I want to echo everything that the former --  
12 or the last testifier presented. Also, I noticed  
13 that condition 1C says that the petitioner may  
14 receive one job credit for each \$50,000 invested in  
15 a startup of non-tourism related businesses. And  
16 then they invested, I guess, over \$118,000 in Wai  
17 Kai, and they're asking for 2372.3 job credits for  
18 that.

19 But I -- I mean, Wai Kai is, like, perhaps  
20 locals also go there. But I'll just note that like  
21 the introductory rate is \$200 for 45 minutes. I --  
22 I believe a lot of tourists do go there, and I think  
23 that it's splitting hairs to say it is or is not a  
24 tourist -- or that it is -- I think it is a tourist  
25 -- a tourist accommodation.

1           So I don't think that they should have  
2 those job credits and that the job credits that  
3 they're asking should not -- or they should -- their  
4 motion to say that they have met all of their job  
5 credits should not be granted. Thank you.

6           CHAIR GIOVANNI: Thank you, Ms. Isaki.  
7           Petitioner, any questions or comments for  
8 this witness?

9           MR. TABATA: No questions.

10          CHAIR GIOVANNI: City and County of  
11 Honolulu, any comments or questions for Ms. Isaki?

12          MR. ARIAS: Hi. Pono Arias. No comments  
13 or questions.

14          CHAIR GIOVANNI: Thank you. OPSD, any  
15 comments or questions for this witness?

16          MS. KATO: Alison Kato. No -- no  
17 comments. Thank you.

18          CHAIR GIOVANNI: Commissioners, any  
19 comments or questions for this witness? Seeing  
20 none, thank you, Ms. Isaki, for taking the time  
21 today.

22          MS. ISAKI: Thank you.

23          CHAIR GIOVANNI: Ms. Kwan, is there anyone  
24 else?

25          MS. KWAN: We have one more on the Zoom.

1 Her name is Lisa E. I will promote her now.

2 CHAIR GIOVANNI: Thank you.

3 MS. KWAN: Lisa, can you turn on your  
4 camera and give us a mic check?

5 MS. ENANORIA: Hi, everyone. Can you hear  
6 me?

7 CHAIR GIOVANNI: Good morning. We do hear  
8 you. So Lisa, can you state your full name, your  
9 address, and then I'll swear you in to testify?

10 MS. ENANORIA: Actually, my full name is  
11 Lisa Enanoria Wirdlechner. I actually work for  
12 Haseko as their community representative. So I just  
13 was -- wanted to make myself available to kind of  
14 clarify some of the information that was given  
15 regarding some of the burials and --

16 CHAIR GIOVANNI: One second. One second.

17 MS. ENANORIA: Sorry.

18 CHAIR GIOVANNI: Before you go -- before  
19 you go any farther, do you swear the testimony  
20 you're about to give will be the truth?

21 MS. ENANORIA: Yes.

22 CHAIR GIOVANNI: Then please proceed. You  
23 have two minutes.

24 MS. ENANORIA: Hi. So some of the  
25 information that I -- I heard was not exactly what

1 occurred. We -- there was, I believe, one burial  
2 that was found on the shoreline on state land. That  
3 was back in the early 2000s. And we did follow  
4 protocol by contacting SHPD, and we were able to  
5 eventually work with them and work with Hoakalei  
6 Culture Foundation.

7 We wanted to make sure that there is a  
8 place for that iwi to be re-interred and follow the  
9 proper procedures. And there is a spot that is in  
10 one of our preservations areas that we had the iwi  
11 returned with the help of Hoakalei Culture  
12 Foundation, and that area is maintained.

13 There was also another burial that was  
14 found that was on our property, not on state land.  
15 And we decided to keep that burial in place. And we  
16 -- we actually redesigned the plan so that that  
17 burial would be safe and never disturbed again. We  
18 actually -- I think it was in one of our Wai Kai  
19 trail plans. So that's some of the information  
20 regarding burials that occurred on our site.

21 We also do work with Hoakalei Culture  
22 Foundation to kind of promote the Native Hawaiian  
23 culture. They have programs that they do in -- that  
24 they actually do in the Hoakalei Culture Foundation  
25 -- during preservation, sorry. One of them is



1 Kauhale Preserve that they actually invite kids from  
2 Kamehameha schools and the local Boys and Girls  
3 Clubhouse and other partners that they may have in  
4 the community.

5 And we have always deferred to them  
6 regarding a lot of the cultural aspects regarding in  
7 our project. So I just wanted to sign on and  
8 clarify those. If you guys have any questions, I'm  
9 here and available.

10 CHAIR GIOVANNI: Thank you. So that was a  
11 little -- that was more a part of your petitioner's  
12 representation.

13 MS. ENANORIA: Yes, sorry.

14 CHAIR GIOVANNI: But I do welcome the  
15 comments. So Mr. Tabata, do you want to add  
16 anything to this, what the witness said on behalf of  
17 a Haseko?

18 MR. TABATA: No. We have no questions for  
19 the witness. Thank you.

20 CHAIR GIOVANNI: Okay. City and County,  
21 any questions for the witness?

22 MR. ARIAS: Hi. Pono Arias. No questions  
23 or comments.

24 CHAIR GIOVANNI: OPSD, comments or  
25 questions?

1 MS. KATO: Alison Kato. No questions or  
2 comments. Thank you.

3 CHAIR GIOVANNI: Okay. Commissioners?  
4 Mr. Yamane.

5 COMMISSIONER YAMANE: I have a question  
6 for the petitioner.

7 CHAIR GIOVANNI: Go ahead.

8 COMMISSIONER YAMANE: MR. Tabata, with the  
9 -- like, if the Land Use grants this order, what's  
10 -- what does that enable your client to do, and is  
11 there any time frame on what will happen next with  
12 the granting of this motion?

13 MR. TABATA: What it does is it qualifies  
14 us to seek building permits for the hotels. Timing  
15 wise, you know, right now Haseko is in the process  
16 of marketing the resort property, and they're  
17 looking for a partner with a hotel or hotels. And  
18 we don't have a -- there's no time frame. We're at  
19 that stage yet in the beginning.

20 COMMISSIONER YAMANE: Okay. Thank you.  
21 No more questions, Mr. Chair.

22 CHAIR GIOVANNI: Thank you. So Ms. Kwan,  
23 is there anybody else who signed up for public  
24 testimony?

25 MS. KWAN: Seeing none in the Q&A feature,

1 Chair.

2 CHAIR GIOVANNI: Thank you. So now, we'll  
3 proceed to closing arguments. So petitioner, based  
4 on what you've heard with public testimony and  
5 comments from commissioners, do you have any final  
6 closing statements you'd like to make?

7 MR. TABATA: Thank you, Chair. Curtis  
8 Tabata for petitioner. The only additional remarks  
9 I would like to make is that we believe Wai Kai is  
10 non-tourism related. We have not built our hotels  
11 yet. Wai Kai received its certificate of occupancy  
12 back in 2023. It's been in operation, and I'm told  
13 it's -- they're getting good patronage. It's busy.

14 We believe they are -- they are mostly  
15 local residents. Of course, tourists are welcome  
16 too. But on that basis we believe that it qualifies  
17 -- Wai Kai qualifies as a non-tourism related  
18 investment. Thank you.

19 CHAIR GIOVANNI: Commissioners, any  
20 questions for Mr. Tabata?

21 Can you -- Mr. Tabata, can you state again  
22 for us what you have already completed in terms of  
23 housing on this project?

24 MR. TABATA: Right. Approximately 82  
25 percent of 4,850 residential units have been built

1 and sold. So there's about 12 percent more to go.

2 CHAIR GIOVANNI: And what's the plans for  
3 those?

4 MR. TABATA: We're in the process of  
5 completing them. I'm not sure if we have a specific  
6 time frame involved, but it's in process, I believe.

7 CHAIR GIOVANNI: Is construction ongoing?

8 MR. TABATA: Yes, it is ongoing.

9 CHAIR GIOVANNI: Okay. Thank you.  
10 Commissioners, anything further for the petitioner?

11 City and County of Honolulu, any closing  
12 statement?

13 MR. ARIAS: Hi. Pono Arias. Nothing to  
14 add. Thank you for the -- for your time.

15 CHAIR GIOVANNI: Thank you. OPSD,  
16 anything to add?

17 MS. KATO: Alison Kato. No further  
18 comments. Thank you.

19 CHAIR GIOVANNI: Okay. So we'll now go  
20 into deliberations. The Commission will conduct  
21 formal deliberations whether to grant or deny the  
22 motion for job credits.

23 I would note for the parties that the  
24 public -- and the public that during the  
25 commissioners' deliberations, I will not entertain

1 any additional input from the parties or the public,  
2 unless those individuals or entities are  
3 specifically requested to do so by the chair. If  
4 called upon, I would ask that they limit their  
5 comments to the question that has been asked.

6 So Commissioners, let me confirm that each  
7 of you have reviewed the record and are prepared to  
8 deliberate on the subject docket. After I call your  
9 name, would you please signify that either aye or  
10 nay, that you are prepared to deliberate?

11 Commissioner Yamane.

12 COMMISSIONER YAMANE: Aye.

13 CHAIR GIOVANNI: Commissioner Carr Smith?

14 COMMISSIONER CARR SMITH: Yes, I am.

15 CHAIR GIOVANNI: Commissioner Lee.

16 COMMISSIONER LEE: Yes.

17 CHAIR GIOVANNI: Commissioner Miyasato.

18 COMMISSIONER MIYASATO: Aye.

19 CHAIR GIOVANNI: Commissioner Kahele.

20 COMMISSIONER KAHELE: Yes.

21 CHAIR GIOVANNI: Commissioner U'u.

22 COMMISSIONER U'U: Aye.

23 CHAIR GIOVANNI: And the chair is also  
24 prepared to deliberate on this matter.

25 Commissioners, the chairs will entertain a

1 motion that the LUC grant or denies this motion, the  
2 petitioner's motion for approval of job credits as  
3 required by the Land Use Commission decision and  
4 order October 17, 2000.

5 Mr. U'u, please make your motion, if you'd  
6 like to do so, and the reasons for it.

7 COMMISSIONER U'U: You know, I -- I'd  
8 rather turn them over to someone from Oahu, if you  
9 don't mind, to make the motion --

10 CHAIR GIOVANNI: Okay.

11 COMMISSIONER U'U: -- if they're in. I  
12 just feel it's more appropriate.

13 CHAIR GIOVANNI: Okay.

14 COMMISSIONER U'U: But I do support.

15 CHAIR GIOVANNI: So do I have a motion?

16 COMMISSIONER LEE: Chair, I will make the  
17 motion.

18 CHAIR GIOVANNI: Go ahead, Commissioner  
19 Lee.

20 COMMISSIONER LEE: I move that we approve  
21 the job credits as required by the Land Use  
22 Commission decision order issued on October 17th as  
23 requested by the petitioner.

24 CHAIR GIOVANNI: Thank you. Do I have a  
25 second motion from Commissioner Lee?

1 COMMISSIONER U'U: I'll second it, second.

2 CHAIR GIOVANNI: Second by Commissioner  
3 U'u. Commissioner Lee, would you speak in -- why  
4 you support the motion?

5 COMMISSIONER LEE: I don't have much to  
6 say. I think the petitioner complied with the terms  
7 of the agreement, and so I approve.

8 CHAIR GIOVANNI: Very good. Commissioner  
9 U'u, we heard you earlier. Do you want to add  
10 anything?

11 COMMISSIONER U'U: I'd just like to add  
12 what I mentioned earlier. Impressive, I think at  
13 this time in the stages of what developers we need  
14 to lean on and depend on, I think you guys set I  
15 great example. Mahalo.

16 CHAIR GIOVANNI: Thank you.  
17 Commissioners, any further questions or comments?  
18 Ms. Carr Smith.

19 COMMISSIONER CARR SMITH: Thank you,  
20 Chair. I just wondered if you guys would be open to  
21 adding to the motion just so everything's in it from  
22 the start, and that is to authorize the chairperson  
23 to execute the order necessary to effectuate the  
24 Commission's decision --

25 CHAIR GIOVANNI: Thank you.

1 COMMISSIONER CARR SMITH: -- subject to  
2 review and approval of the AG's office.

3 CHAIR GIOVANNI: Thank you, Commissioner.  
4 Commissioner Lee, would you be welcome that friendly  
5 amendment?

6 COMMISSIONER LEE: I do, Chair.

7 CHAIR GIOVANNI: Commissioner U'u, do you  
8 second that friendly amendment to authorize the  
9 chair to execute?

10 COMMISSIONER U'U: Yes, aye.

11 CHAIR GIOVANNI: Okay. So all in favor of  
12 the friendly amendment, signify by saying aye?

13 THE COMMISSION: Aye.

14 CHAIR GIOVANNI: Okay. So now we have a  
15 motion to approve the motion put forth by the  
16 petitioner and to authorize the chair to execute if  
17 we so move it forward.

18 So Mr. Orodenger, please poll the  
19 commissioners.

20 MR. ORODENKER: Thank you, Mr. Chair. The  
21 motion is to approve the job credits as requested by  
22 the petitioner and authorize the chair to execute  
23 the decision in order. Commissioner Lee.

24 COMMISSIONER LEE: Aye.

25 MR. ORODENKER: Commissioner U'u.



1 COMMISSIONER U'U: Aye.

2 MR. ORODENKER: Commissioner Yamane.

3 COMMISSIONER YAMANE: Aye.

4 MR. ORODENKER: Commissioner Miyasato.

5 COMMISSIONER MIYASATO: Aye.

6 MR. ORODENKER: Commissioner Kahele.

7 COMMISSIONER KAHELE: Aye.

8 MR. ORODENKER: Commissioner Carr Smith.

9 COMMISSIONER CARR SMITH: Aye.

10 MR. ORODENKER: Chair Giovanni.

11 CHAIR GIOVANNI: Aye.

12 MR. ORODENKER: Thank you, Mr. Chair. The  
13 motion passes unanimously.

14 CHAIR GIOVANNI: Thank you. And thank you  
15 all for participating at this time. Mr. Tabata?

16 MR. TABATA: Thank you. Chair, would you  
17 -- do you want the petitioner to submit an order for  
18 LUC staff's consideration?

19 CHAIR GIOVANNI: Yes, I would. That would  
20 be great.

21 MR. ORODENKER: That would be very  
22 helpful. Thank you.

23 CHAIR GIOVANNI: So you are all excused.

24 MR. TABATA: Thank you very much.

25 CHAIR GIOVANNI: I'm going to take one

1 more agenda item before we take a short break, and  
2 that is the presentation of our meeting schedule.  
3 This is item 4 on our agenda. So Mr. Orodenger,  
4 please present the schedule.

5 MR. ORODENKER: Thank you, Mr. Chair.  
6 Tomorrow, February 6th, if needed, we will be back  
7 here again to talk about the legislative updates.  
8 On February 19th, we will be on Maui at the Maui  
9 Arts and Cultural Center to do A07-773 Emmanuel  
10 Lutheran status report. On March 19th, we have a  
11 status report on the -- on the Toyama S-special  
12 permit, which will be in Hilo. On the 20th, we will  
13 be in Kona for the Bencorp status report. And that  
14 is everything we have currently agendized, Mr.  
15 Chair.

16 CHAIR GIOVANNI: Okay. Thank you.

17 COMMISSIONER LEE: Chair, I have a  
18 question.

19 CHAIR GIOVANNI: Commissioner Lee.

20 COMMISSIONER LEE: I'm aware that there  
21 are conferences that are not on the calendar that  
22 the commissioners and staff go to. So can that be  
23 made -- that information be made available to  
24 commissioners in the future?

25 CHAIR GIOVANNI: Certainly. So you're

1 talking about conference like the HPCO conference  
2 that we attended.

3 COMMISSIONER LEE: I mean out of state  
4 ones, because we know -- we all know about the local  
5 one, but we're not all made aware of the out of  
6 state conferences. And if there's good information  
7 that can be shared, I'm sure, you know, we would all  
8 like to know, you know, whatever we can from these  
9 valuable conferences.

10 CHAIR GIOVANNI: Okay. So the chair would  
11 like to ask the staff when it presents its regular  
12 meeting schedule at our meeting if you have  
13 identified any conferences, out of state  
14 conferences, that will be attended by staff or  
15 commissioners, just put them on the record at that  
16 time.

17 MR. ORODENKER: We will do so, Mr. Chair.

18 CHAIR GIOVANNI: Are there any pending  
19 currently?

20 MR. ORODENKER: Let me see. I believe  
21 that the APA conference is coming up and the ULI  
22 Spring conference is coming up. We also have the  
23 ESRI GIS conference and the -- in August, and we'll  
24 be sending at least one person to that.

25 CHAIR GIOVANNI: Okay. So at our meeting

1 on February 19th, please just give us a summary of  
2 what the plans are. That'd be great.

3 MR. ORODENKER: Thank you, Mr. Chair.

4 COMMISSIONER YAMANE: Mr. Chair.

5 CHAIR GIOVANNI: Mr. Yamane.

6 COMMISSIONER YAMANE: Just I -- I let  
7 staff know, but I won't be available on March 19 and  
8 20. Thank you, Mr. Chair.

9 CHAIR GIOVANNI: And also the meetings  
10 that were tentatively scheduled for March 5 and 6  
11 will not occur. Those have been identified at a  
12 previous meeting. So we have nothing on March 5 and  
13 6; is that correct?

14 MR. ORODENKER: Currently we do not, Mr.  
15 Chair.

16 CHAIR GIOVANNI: Yeah. I'm not available  
17 for those.

18 MR. ORODENKER: Thank you.

19 CHAIR GIOVANNI: Okay. So nothing -- so  
20 we -- February 19 -- we have tomorrow, February  
21 19th, and then we have March -- the latter part of  
22 March. Ms. Carr Smith, did you have something you  
23 wanted to say?

24 COMMISSIONER CARR SMITH: I did.

25 CHAIR GIOVANNI: Okay. Please.

1           COMMISSIONER CARR SMITH: Thank you. Just  
2 on the topic of conferences, I know that I've --  
3 other boards and commissions that I've been on, when  
4 people go to conferences, it's typical that they  
5 come back to the board or commission and report what  
6 they've learned, anything that may affect that board  
7 or commission. So I also wanted to ask that that be  
8 a part of the process.

9           CHAIR GIOVANNI: I'm good with that. But  
10 let me ask staff to just provide a written summary  
11 rather than agenda if staff attends.

12           MR. ORODENKER: Thank you, Mr. Chair.  
13 Pursuant to DBEDT policy, we have to submit a fairly  
14 significant summary of what we've -- we've learned.  
15 And I will make those available to the  
16 commissioners.

17           CHAIR GIOVANNI: Thank you. Commissioner  
18 Lee.

19           COMMISSIONER LEE: Thank you, Chair. You  
20 know, if there are important matters that come that  
21 might need to be scheduled on March 5th and 6th, I  
22 urge you to consider having your vice chair take  
23 over if you are not available.

24           CHAIR GIOVANNI: I -- there's nothing on  
25 the agenda.

1 COMMISSIONER LEE: I sent a request.

2 CHAIR GIOVANNI: Yeah. Okay. It is now  
3 10:50. I'm going to take a -- going to take a 10  
4 minute break, and we'll be back at 11:00 to continue  
5 with our agenda.

6 (Recess taken from 10:50 to 11:00 a.m.)

7 CHAIR GIOVANNI: Okay. We're going back  
8 on the record. It's 11:00, and we've completed our  
9 first four agenda items. I'd also like the record  
10 to show that we are now joined by Commissioner  
11 Hayashida from Oahu. Thank you.

12 So the next agenda item is a status report  
13 by the Land Use Development coordinator. So Ms.  
14 Kwan, has there been any public testimony, written  
15 public testimony submitted on this matter?

16 MS. KWAN: No, Mr. Chair.

17 CHAIR GIOVANNI: Has been anybody signed  
18 up to provide oral testimony on this matter?

19 MS. KWAN: No, Mr. Chair.

20 CHAIR GIOVANNI: Okay. So as soon as  
21 Commissioner U'u seats, we'll all be in our  
22 positions, and I can call on Mr. Wong. Please  
23 proceed with your update.

24 MR. WONG: Thank you Chair and thank you  
25 commissioners for allowing me the time to provide an

1 update on my work. Again, I'll keep this  
2 information at a high level due to the fact that  
3 this body is quasi-judicial, and any information  
4 that may come to you in the near future, I don't  
5 want you to be excluded from proceedings due to ex  
6 parte communications. So that's -- I just wanted to  
7 say it's a high level.

8 To date, after communication with the  
9 owners, developers, and/or their representatives,  
10 several projects have started to get back on track.  
11 I am happy to announce that we have been informed by  
12 that by the end of this fiscal year, 2025, so that  
13 will end June 30th, we will have started to break  
14 ground on approximately 1,000 units throughout the  
15 state of Hawaii.

16 This includes obtaining construction  
17 permits for -- sorry -- got to use my old -- this is  
18 old term, my terminology from when I used to work  
19 somewhere -- grubbing, which means groundbreaking  
20 and digging up the dirt to vertical construction,  
21 meaning they start the build process. This includes  
22 400 units on Maui, 250 units on Oahu, and  
23 approximately 500 units on Kauai.

24 Big Island, we're still working on it,  
25 Chair -- Commissioners Carr Smith. There has been

1 some issues, such as infrastructure that I brought  
2 up previously and the cost factors and change of  
3 ownership. So we're still working on those. So  
4 just FYI, we haven't forgotten the Big Island or  
5 Island of Hawaii.

6           Additionally, we're continually contacting  
7 and meeting with existing dockets and looking at  
8 other projects. This is done by looking at the  
9 county projects, the listing that was given --  
10 provided to me by the Commission. And I want to  
11 thank them because I didn't know about these permits  
12 and projects that are listed by counties. So thank  
13 you for giving me that opportunity to even look at  
14 that, to marry it up with our own dockets.

15           Also looking at GCA's list of permits and  
16 also building industry magazines, so they just  
17 brought out a new magazine saying what construction  
18 projects are ongoing and see if they are dealing  
19 with our dockets and marrying it up. That's taking  
20 a little time, but it is being worked on. So I just  
21 wanted to thank you on that.

22           If -- and that's about it for now. If  
23 there's any questions, I'm here to answer them.  
24 Thank you.

25           CHAIR GIOVANNI: Thank you, Mr. Wong.



1 Commissioners, questions for Mr. Wong? Commissioner  
2 Lee.

3 COMMISSIONER LEE: Thank you, Chair. Mr.  
4 Wong, how many of those projects that you mentioned  
5 would you say was a result of your intervention?

6 MR. WONG: I'm going to say all.

7 COMMISSIONER LEE: Thank you.

8 MR. WONG: And to expound on that, we have  
9 couple projects that are from the same developer  
10 that has contacted us because they have other  
11 projects in the pipeline that have problems.

12 COMMISSIONER LEE: Can you give us just an  
13 example of some of the things that you did that  
14 helped unblock some of this? You know, you don't  
15 have to go into detail, but you know, you talked to  
16 the -- the permit department or you -- you had got  
17 people to meet and resolve things, you know,  
18 something like that.

19 MR. WONG: So working with Mr. Orodener  
20 and asking for his assistance, we looked at, let's  
21 say, for example, those issues with road work  
22 issues, you know, DOT. So we contacted DOT and, you  
23 know, got that roadblock done, you know, cleared  
24 out. Another was, for example, HI-EMA. This is a  
25 -- just a basic example where the developer, you

1 know, said how -- where they're going to put the  
2 units, the housing units and all that, but they  
3 forget the condition about putting that HI-EMA  
4 siren.

5           And so HI-EMA says: Wait, wait, where are  
6 you going to put our siren? And then it somehow  
7 they go like this, where it's -- one says: You go  
8 here. No, we cannot go there. And so that's when  
9 we meet with HI-EMA and the developer to work out  
10 the details and get that passed. So that's one of  
11 the projects that has been done too.

12           COMMISSIONER LEE: Thank you, Mr. Wong.  
13 Thank you, Chair.

14           COMMISSIONER KAHELE: Chair, I've got a  
15 question.

16           CHAIR GIOVANNI: One second. Just on this  
17 HI-EMA. So in this example, the -- the development  
18 could not go forward without a HI-EMA approval?

19           MR. WONG: Well, in the conditions itself,  
20 if you see that the Land Use Commission has said  
21 that they have to meet with HI-EMA and, if needed,  
22 either put a siren or pay for a siren or give land.

23           MR. ORODENKER: Mr. Chair --

24           CHAIR GIOVANNI: Please.

25           MR. ORODENKER: -- if I may, it was

1 actually a little more complex than that. It's not  
2 that the developers don't recognize that they have  
3 to do something for HI-EMA, because it's in the  
4 decision and order. But sometimes HI-EMA doesn't  
5 respond to their notifications that this is where  
6 they want to put it, you know. And then there's  
7 silence from HI-EMA because HI-EMA is not designed  
8 to respond to those type of things.

9 And then there's recurring issues with  
10 several of the projects over, well, are we  
11 dedicating the land to HI-EMA, or are we just giving  
12 them a license or -- I mean, HI-EMA --

13 CHAIR GIOVANNI: For the siren?

14 MR. ORODENKER: Yeah, for the siren. HI-  
15 EMA's not set up to handle those types of issues.  
16 So we usually -- we've been getting involved in  
17 negotiating settlements or agreements with regard to  
18 those type of things.

19 CHAIR GIOVANNI: Commissioner Kahele.

20 COMMISSIONER KAHELE: Thank you, Chair.  
21 So Mr. Wong, how long have these -- these projects  
22 been sitting on the shelf?

23 MR. WONG: Somewhere from 1970s. So we've  
24 -- when it first started, I didn't know what to  
25 start. I'm going to tell you the truth. So I would

1 started from when we first did DBAs and move  
2 forward. But thankfully, I had Mr. Orodenger and  
3 the Commission to say: Hey, let's speed it up.  
4 Let's look for the -- start to see the low-hanging  
5 fruit that is almost ready to be built. And that's  
6 how we started -- I mean, got the ball moving.

7 COMMISSIONER KAHELE: Thank you.

8 MR. ORODENER: Yeah. If -- if I can  
9 expound on that a little bit. And this is one of  
10 the reasons that Arnold is here. Before the late  
11 '80s, early '90s, we did not put time frames on the  
12 development of projects. There -- it was left to  
13 the developer to just do it whenever they felt like  
14 it. And so now we have a bunch of projects that  
15 were approved in the '70s and '80s that have just  
16 been languishing, and there's -- there's nothing  
17 that we can do because we didn't put a time frame on  
18 them.

19 So those projects very often languish for  
20 reasons that are a little more difficult to handle.  
21 There may be financing. The banks may have taken  
22 them back or whatever, and those are more difficult  
23 to navigate through. So we made the decision to  
24 attack projects that were just tied up for  
25 bureaucratic reasons, so to speak, and to attack

1 those first so that we could have as much of an  
2 impact as quickly as possible.

3 CHAIR GIOVANNI: Thank you. Mr. Yamane.

4 COMMISSIONER YAMANE: Mr. Wong, you  
5 mentioned your first statement about the thousand  
6 units as of fiscal year 2025 in June will at least  
7 start grading, grubbing, breaking ground vertical.

8 MR. WONG: Yes, Commissioner.

9 COMMISSIONER YAMANE: And then Mr. Lee  
10 mentioned, is this because of you? Was that -- are  
11 you talking about the thousand units, or was that  
12 just a report?

13 MR. WONG: The thousand units, sir.  
14 Because, you know, there's other units out there  
15 that we have no say on. For example, let's say  
16 HHFDC or, you know, these small 10 -- 10 acres that  
17 we don't touch at all or even in, you know -- in  
18 house land -- local landfills that we cannot touch,  
19 because it's already urbanized. Land Use never even  
20 touch them. So these are thousand that Land Use has  
21 touched.

22 COMMISSIONER YAMANE: Okay. And then what  
23 -- can you say where the 500 are in Kauai? Or  
24 they're in -- I mean if they're in construction, are  
25 they still going to be in front of the Land Use?

1 MR. WONG: No.

2 COMMISSIONER YAMANE: So can you speak  
3 more detail for them then.

4 MR. WONG: So for example, one on Kauai  
5 that's -- is Waihee Ridge, and that's -- sorry, I'm  
6 not a Kauai person, but you know where Safeway  
7 Costco is?

8 MR. YEMANE: Yeah.

9 MR. WONG: Above that highway, there's a  
10 parcel there that has a school or church. It's  
11 right next door. And it's going to be 100 percent  
12 affordable.

13 MR. YEMANE: Okay. Thanks. And what does  
14 GCA stand for?

15 MR. WONG: General Contractors  
16 Association, sorry.

17 MR. YEMANE: Thank you. No more  
18 questions, Mr. Chair.

19 CHAIR GIOVANNI: Commissioners.

20 COMMISSIONER CARR SMITH: Chair.

21 CHAIR GIOVANNI: Commissioner Carr Smith.

22 COMMISSIONER CARR SMITH: Thank you. I  
23 wanted to know what GCA was, as well. And then you  
24 also mentioned a -- a document that has all the  
25 permits listed per county?

1 MR. WONG: Yeah. What happened was  
2 there's a list in the county that shows all these  
3 projects that they're -- they're working on and --  
4 in the permit process and/or what they've been, you  
5 know, like planning and permitting. What I'm doing  
6 is try to cross-reference those and see where it  
7 matches with our land use projects.

8 COMMISSIONER CARR SMITH: So you're  
9 picking land use projects -- or you're picking  
10 projects that did have time frames --

11 MR. WONG: Well, some of them are --

12 COMMISSIONER CARR SMITH: -- and you're  
13 checking to see whether they're within their time  
14 frames? Is that -- is that how you're picking these  
15 particular projects?

16 MR. WONG: Yes. And then some of them  
17 we're doing just because -- for example, we hear it  
18 in the news, they're going to -- it's in the news  
19 for something. So we say: Hey, let's look into  
20 this project to make sure if it's a LUC or non-LUC.

21 MR. ORODENKER: Okay. So before Arnold  
22 starts to work on a project, we discuss it. And  
23 what Arnold has actually done is taken projects that  
24 -- from those lists that are projects that we have  
25 approved. And once we've -- we've distilled those

1 out, then it -- it's not so much that we're looking  
2 for projects with time frames. We're looking for  
3 projects that we can't explain why they're not  
4 moving.

5           And then Arnold then goes and talks to the  
6 developers to find out whether there's something  
7 that we can help them with. We don't -- we're not  
8 looking for projects that are violated their time  
9 frames and to bring them back here for, you know,  
10 scoldings. We're looking for projects that might be  
11 held up for a year or two beyond -- beyond what  
12 you'd expect just because of things like HI-EMA or  
13 DOT or things like that. We're just trying to break  
14 log jams.

15           COMMISSIONER CARR SMITH: And can you  
16 speak more to what did you run into on Hawaii Island  
17 that made it so that nothing was able to be produced  
18 there that -- at this time?

19           MR. WONG: One -- one project that -- that  
20 is interesting and I'm still trying to find out  
21 something is -- there's one that's change of  
22 ownership three times. And I'm still trying to find  
23 out who's that final owner. So I'm -- you know,  
24 have to go through DCCA and all that and see who's  
25 the owners, you know. So it -- it's not like it's



1 going to be their Google, you have to, you know,  
2 search down. So that's one thing.

3 And another thing is cost of  
4 infrastructure. Like everyone else talks about,  
5 infrastructure is what has been going up like crazy.

6 CHAIR GIOVANNI: Commissioner Lee.

7 COMMISSIONER LEE: Thank you, Chair. For  
8 the executive officer, maybe it's not the primary  
9 activity of this, but when you do find projects that  
10 are behind and, you know, would that show up on  
11 their status reports if they do them?

12 MR. ORODENKER: Theoretically, yes. I  
13 mean, if we get a status report that basically says  
14 we haven't done anything -- and this is actually not  
15 Arnold's area, this is Martina's area -- and the  
16 deadlines are coming up, you know, we -- we usually  
17 schedule them for a status review so that the  
18 Commission can decide how they want to handle it.

19 COMMISSIONER LEE: Okay. Thanks. Yeah.  
20 If -- if projects are behind and, you know -- and  
21 you find that out as a byproduct of Arnold's  
22 activity, you know, it would be good to follow up on  
23 that as your course of business.

24 MR. ORODENKER: Yeah. That -- that's a  
25 regular course of business for us, and that's why we

1 schedule status reports is when we find one of those  
2 projects that's just not making any headway and not  
3 meeting its deadlines to find out whether they  
4 intend to meet them so this Commission can decide  
5 whether or not they want to continue to cut them  
6 slack or whatever.

7 COMMISSIONER LEE: Okay. Thank you.

8 CHAIR GIOVANNI: Thank you. I just have  
9 one, I don't know if it's a rhetorical question or  
10 whatever, but it -- my sense is that when we have a  
11 decision and order for a project, we -- we learn  
12 that the enforcement of those conditions in large  
13 part is that of the county. So I just want to  
14 clarify that you're not doing enforcement, you're  
15 doing facilitation --

16 MR. WONG: Yes.

17 CHAIR GIOVANNI: -- which is different.

18 MR. WONG: That is correct.

19 CHAIR GIOVANNI: So you're -- so you're  
20 not looking for -- for or where they have either  
21 violated or in some way ignored a condition. You're  
22 trying to find out -- and I'm putting words in your  
23 mouth, but are you trying to find out what you can  
24 do to facilitate so that they can move forward,  
25 which is different than enforcement? Is that

1 correct?

2 MR. WONG: That is correct, sir. And  
3 we're -- we're trying to be the assistance, not a --  
4 a policeman, but someone to say: Hey, let us help  
5 you. Let's assist and facilitate.

6 COMMISSIONER KAHELE: I got a comment.

7 CHAIR GIOVANNI: Mr. Kahele.

8 COMMISSIONER KAHELE: 55 years this  
9 project's been out there on the shelf, and -- and  
10 how many other projects that we have out there  
11 that's -- they're sitting in a cabinet, so on a  
12 shelf, that potentially has an opportunity to move  
13 forward and finally, you know, hopefully bring to  
14 closure?

15 MR. WONG: Commissioner, that's a good  
16 question. Right now, we've looked -- there's  
17 approximately 40- to 65,000 units, in general, that  
18 hasn't been built throughout the years. And we're  
19 just -- you know, it's like a big iceberg. We're  
20 just trying to chip away and get as much as we can  
21 just for the people of Hawaii.

22 COMMISSIONER KAHELE: Thank you, Arnold.  
23 Good job.

24 MR. WONG: Thank you, Chair --  
25 Commissioner. Sorry.

1 CHAIR GIOVANNI: Commissioner Lee.

2 COMMISSIONER LEE: Thank you, Chair. So  
3 Arnold, since you're providing such a valuable  
4 service to these developers, we hope you don't get  
5 hired away. And I know you can't get paid a  
6 finder's fee, but, you know, maybe that's some way  
7 of encouraging them. And I don't know why these  
8 guys aren't doing this themselves. But, you know,  
9 if you're doing all this, then it sounds like a  
10 valuable service.

11 MR. WONG: Thank you, Commissioner. And  
12 it -- to me, it's -- it's a helpful service that --  
13 it's for the people of Hawaii. It's for my sons and  
14 our grandkids so -- and our friends. So it's a  
15 worthwhile endeavor.

16 CHAIR GIOVANNI: So I have a question that  
17 follows on what Commissioner Lee brought up. So in  
18 general, not -- don't speak to any specific  
19 developer, but in general, if a developer is  
20 delayed, you're -- you're unclogging the log jams,  
21 right, to get a project going forward? What -- what  
22 does the -- why aren't the developers trying to  
23 unclog their own projects? What are you finding  
24 that causes a developer to just put it on the shelf  
25 instead of trying to work a solution to the problem?

1 MR. ORODENKER: Mr. Chair, if I can -- if  
2 I can speak to that, having been a consultant for  
3 developers, is that developers very often take a  
4 shotgun approach. They put five projects out there  
5 and hope that one of them is going to move. If a  
6 project gets delayed and the other projects are  
7 moving, they just walk away from the one and start  
8 to work on the other one. They always take the path  
9 of least resistance.

10 And one of the reasons that we felt Arnold  
11 was important is because Arnold creates a path of  
12 least resistance so that developers will look back  
13 in a project and say: Oh, that problem's gone, why  
14 don't we just build it, instead of focusing on the  
15 other projects that they're working on.

16 CHAIR GIOVANNI: Yeah. Okay.  
17 Commissioner Carr Smith.

18 COMMISSIONER CARR SMITH: Thank you. Just  
19 one last question. Arnold's job is obviously  
20 different than the rest of the staff. And so I'm  
21 just curious how -- what's the plan forward? What  
22 -- what are your goals, and how do you -- at what  
23 point are you going to have figured out any -- how  
24 to -- to assist any of these developers? And then  
25 what's next? What -- what else do you plan to do?

1 MR. WONG: Well, because of my age, I -- I  
2 was hoping this will be my last job and retire and  
3 have fun golfing. The other thing is --

4 COMMISSIONER CARR SMITH: Not the answer I  
5 was looking for.

6 MR. ORODENKER: I can answer that,  
7 Commissioner. There's a lot of work to do. I mean,  
8 as we mentioned, there's 65,000 units out there. It  
9 will take years for us to get -- move through all of  
10 those projects and make a determination on whether  
11 or not we can be of any value to the developer.

12 And as Arnold has stated, he is -- he's  
13 not the youngest guy in the whole world. But once  
14 we've completed that analysis and we've determined  
15 that there's nothing else that we can do, then we'll  
16 probably let the position go. But that's going to  
17 be years. I mean, we've got a lot of projects that  
18 aren't moving.

19 COMMISSIONER CARR SMITH: Sorry. I lied.  
20 One more. And it's not necessarily for Arnold, but  
21 I'm starting to understand what everybody does here.  
22 So am I to understand that Martina does the status  
23 reports and annual filings as well as staff reports?  
24 Or it's not that simple, but it -- I think it's good  
25 for us --

1 MR. ORODENKER: Yeah, no.

2 COMMISSIONER CARR SMITH: -- to know who  
3 does what.

4 MR. ORODENKER: Right now, we're all doing  
5 everything, except for Arnold, because we're one  
6 planner short. So Martina is doing two jobs.  
7 Ariana is doing two jobs. Scott's doing two jobs.  
8 You know, we -- we spread out the workload so that  
9 the planner who has the most time can handle the  
10 staff reports.

11 And Martina was originally tasked with  
12 looking at the annual report, so they kind of  
13 default to her. But she's also doing planner 5  
14 work, and we've temporarily assigned her into the  
15 planner 5 position. But we are short a planner, so  
16 we're -- we're just kind of -- trying to handle the  
17 workload as best we can.

18 CHAIR GIOVANNI: Okay. Thank you. Thank  
19 you, Mr. Wong.

20 MR. WONG: Thank you, Chair. Thank you.  
21 Commissioners.

22 CHAIR GIOVANNI: Hang on a second, we  
23 might have more public testimony. Ms. Kwan, is  
24 there anybody who wants to testify here, this?

25 MS. KWAN: Seeing none for this agenda

1 item.

2 CHAIR GIOVANNI: Okay. So thank you, Mr.  
3 Wong.

4 MR. WONG: Thank you.

5 CHAIR GIOVANNI: And thank you for the  
6 work you do.

7 MR. WONG: Thank you.

8 CHAIR GIOVANNI: So the next agenda items,  
9 first of 14, has to do with proposed bills before  
10 the 2025 legislature. So I'm going to go back half  
11 a step to our last meeting in which we decided upon  
12 how we were going to proceed with testimony from the  
13 staff and the commission in this current legislative  
14 session.

15 So -- so this is the way I'd like to  
16 proceed, but I would welcome any comments or  
17 questions on it. So we have 14 separate agenda  
18 items, and we'll take them one at a time. But on  
19 the first one, we're going to spend a little more  
20 time because I'm going to do two things. First of  
21 all, the executive staff has received a memo from  
22 DBEDT director guiding them on testimony.

23 So I want -- just in terms of full  
24 disclosure, I'd like the Commission to be fully  
25 informed of what that direction is. And so I'll be



1 asking the executive director to read that memo for  
2 the record for all commissioners, and commissioners  
3 could ask questions about it. But that memo will  
4 apply to, not only the next agenda item, but all the  
5 next 14 agenda items.

6           And then secondly, I'd like to just review  
7 for everybody what -- what our decision and order  
8 was -- what our decision was at our last meeting.  
9 So Commissioner Miyasato had moved to adopt the  
10 Office of Information Practices Sunshine Law options  
11 to address the legislative issues and measures.

12           And we chose what we refer to as option  
13 1A, which was a delegation to the staff and the  
14 executive officer to prepare and provide testimony  
15 on behalf of the Commission, with the caveat that  
16 the staff does not have to take a position but  
17 provide comments in regards to the -- how the bill  
18 affects the Commission, unless the commission adopts  
19 a specific position on a specific bill.

20 Commissioner Hayashida seconded the motion, and the  
21 motion passed with six ayes and three nays.

22           So in effect, we will be reviewing. This  
23 is the process that I want to go forward with on a  
24 bill-by-bill basis. So first of all, the -- the  
25 staff identified a number of bills for our

1 consideration, and some of the commissioners added  
2 to that list and so that's why we ended up with 14  
3 separate bills that perhaps have some relevance to  
4 the Land Use Commission that are active in the  
5 current legislature.

6 For each of these, we will ask if there's  
7 any public testimony on these bills. Secondly, we  
8 will ask staff to provide a brief summary of the  
9 bill for the Commission and their recommendations  
10 regarding whether there's concerns or whether they  
11 recommend that we provide any testimony or that we  
12 take any specific position. After we understand  
13 where the staff is coming from, the Commission can  
14 then decide whether it wants to take a position or  
15 not.

16 If it takes no position, I think that  
17 means, the way I interpret it, that we're going to  
18 provide no testimony. So if we take a position, an  
19 executive officer can prepare testimony consistent  
20 with that and present it on our behalf. If we do  
21 not take a position, there'll be no testimony. And  
22 as you'll hear from the directive from the DBEDT  
23 director, we will only consider when we do testify  
24 offering comments or offering support. We will not  
25 be offering opposition to -- to two bills.

1           So before we go forward with the reading  
2 of the -- those two -- that memo, does anybody have  
3 any questions on the process that I just described?  
4 Commissioner Lee.

5           COMMISSIONER LEE: Thank you, Chair. So  
6 just to clarify, the directive is not to offer  
7 opposition on any bills?

8           CHAIR GIOVANNI: Right.

9           COMMISSIONER LEE: Okay. Thank you.

10          CHAIR GIOVANNI: I think we'll hear more  
11 about that. Okay.

12          MS. KWAN: Testing you.

13          CHAIR GIOVANNI: Testing me. Okay. So  
14 this is agenda item regarding the 2025 legislative  
15 session and proposed bills. So I will also be  
16 taking -- if there is public testimony, it's going  
17 to be on a bill-by-bill basis. I don't want to take  
18 testimony on the first bill that might apply to  
19 something we're going to consider even tomorrow.  
20 Right, Ms. Kwan? So when we ask for public  
21 testimony, it'll be specific to a bill that's before  
22 us, right?

23                 So the first one is a decision by the  
24 Commission's position regarding --

25          MS. KWAN: Chair, do we want to recognize

1 written testimony on all of them first?

2 CHAIR GIOVANNI: Yep. Well, no, not all  
3 of them. One by one.

4 MS. KWAN: The written one.

5 CHAIR GIOVANNI: So we'll cross that  
6 bridge as -- I'll show you how I'm doing.

7 So the first order of business on this  
8 legislative session has to do with our position on  
9 Senate Bill 28. Okay. So now I will recognize if  
10 there's any written testimony on Senate Bill 28.  
11 Then I'll ask for public testimony. Then I'll ask  
12 for staff to summarize. Then I'll ask for  
13 commissioners' comments. Then we'll open the door  
14 for public comment again. And then finally, the  
15 Commission will make a motion or not for a position  
16 on that bill.

17 MS. KWAN: For written testimony, I'm  
18 going to need a recess to review it all because all  
19 the bills are different testimony, and I got to  
20 tally up.

21 MR. ORODENKER: Yeah. Mr. Chair, I -- I  
22 would suggest with regard to the written testimony,  
23 after having reviewed it all, that we just recognize  
24 it because most of the written testimony covers more  
25 than one bill.

1 CHAIR GIOVANNI: Okay. And it's all been  
2 published on the website?

3 MR. ORODENKER: Yes, it has.

4 CHAIR GIOVANNI: Okay. So we'll take the  
5 written testimony as an aggregate. Commissioners,  
6 are you okay with that? Commissioner Lee.

7 COMMISSIONER LEE: Chair, I'm kind of  
8 confused because in other -- in past meetings -- and  
9 by the way, thank you for providing these last  
10 minute testimonies. Whenever possible, we should  
11 get as many -- much testimony as possible. I know  
12 in the past though, if it was one day before, you --  
13 you didn't even have time to check them. So I'm  
14 glad you're providing them. So in the future, if we  
15 can have as much testimony, even if late, as  
16 possible.

17 But I don't understand -- I mean, the  
18 written testimony is written testimony. We just  
19 read it, you know, if we can. If we can't, we  
20 can't. But I don't know why we have to have staff  
21 summarize it.

22 CHAIR GIOVANNI: No, we're not asking  
23 staff to summarize it. They're going to summarize  
24 their position on the matter. The written -- I'm  
25 just asking if there is written testimony.

1 COMMISSIONER LEE: Right. But that's why  
2 I'm glad you clarified that, because it sounded like  
3 staff was being asked to --

4 CHAIR GIOVANNI: Summarize written?

5 COMMISSIONER LEE: Yeah.

6 CHAIR GIOVANNI: No.

7 COMMISSIONER LEE: Okay. Thanks.

8 CHAIR GIOVANNI: So if there's written  
9 testimony that's been received, I want to verify  
10 it's been -- been posted so we can read it, if we  
11 still choose. That's consistent, right? And I'm  
12 going to acknowledge all the written testimony for  
13 all of the bills. Right. But if there's oral  
14 testimony, it will be on a bill-by-bill basis.

15 COMMISSIONER YAMANE: Mr. Chair, I just  
16 had a point clarification.

17 CHAIR GIOVANNI: Sure. Commissioner  
18 Yamane.

19 COMMISSIONER YAMANE: I just want to  
20 clarify between written testimony for an agenda item  
21 and written testimony for bills, what are we talking  
22 about? We're not talking about --

23 MR. ORODENKER: Well, we received -- okay.  
24 To be precise, received a -- we received a -- should  
25 I use the word plethora of written testimony with

1 regard to our proposed agenda or our agenda items  
2 that reference specific bills. Most of that  
3 testimony was either -- well, there was some of it  
4 that was -- a couple in support or recommending that  
5 we support certain bills. And there was a lot of  
6 testimony recommending that we do not support  
7 certain bills.

8           Most of that testimony was all jumbled up.  
9 It didn't talk just about one bill that they wanted  
10 us to support or to not support. They -- they  
11 weren't submitting testimony on the bill  
12 specifically as they would to the legislature.  
13 They're submitting testimony urging us not to  
14 support or to support certain measures.

15           COMMISSIONER YAMANE: Thank you. That --  
16 just wanted to clear that up. Thanks.

17           CHAIR GIOVANNI: I'm sure it's very clear  
18 everybody's mind now.

19           COMMISSIONER CARR SMITH: Chair.

20           CHAIR GIOVANNI: Where is this coming  
21 from? Commissioner Carr Smith.

22           COMMISSIONER CARR SMITH: Thank you. You  
23 mentioned a letter from the director, DBEDT  
24 director. And I thought you said you were going to  
25 read that.

1 CHAIR GIOVANNI: We are.

2 COMMISSIONER CARR SMITH: When does that  
3 happen?

4 CHAIR GIOVANNI: Next.

5 COMMISSIONER CARR SMITH: Okay.

6 CHAIR GIOVANNI: So yeah, it's come to my  
7 attention -- but first of all, I want to get the  
8 public testimony out of the way. So is there  
9 anybody that has indicated they want to present oral  
10 testimony on Senate Bill 28?

11 MS. KWAN: Well, first I'm going to  
12 acknowledge the written testimony for the agenda  
13 items. We received one on February 3rd, one on  
14 February 4th, and 44 this morning as of 9:00 a.m.  
15 After 9:00 a.m., I was unavailable to check if we  
16 received additional written testimony.

17 CHAIR GIOVANNI: So these 46 testimonies  
18 have been posted?

19 MS. KWAN: All 46 before 9:00 a.m. have  
20 been posted to the website site on the agenda and  
21 minutes page.

22 CHAIR GIOVANNI: Thank you so much. Okay.  
23 Now, is there any oral -- anybody wishing to do oral  
24 testimony on Senate Bill 28?

25 MS. KWAN: Yes, Mr. Chair. I have three



1 written up through the Q&A feature. The first one  
2 who would like to speak on agenda item 6 is Steven  
3 Lee Montgomery. I will promote him now.

4 Mr. Montgomery, can you do a mic check and  
5 a video check? Mr. Montgomery, can you hear me?

6 CHAIR GIOVANNI: Ms. Kwan, let's go to  
7 number 2.

8 MS. KWAN: Okay. I'm going to move on to  
9 number 2, which is Wayne Tanaka, and we'll come back  
10 to Steven Montgomery after.

11 CHAIR GIOVANNI: Who's that? Let's go  
12 with Mr. Montgomery.

13 Mr. Montgomery, can you please state your  
14 name and your address?

15 MS. KWAN: Sir, you're muted.

16 UNIDENTIFIED SPEAKER: Okay. I think we  
17 did it.

18 CHAIR GIOVANNI: Been a long day. What  
19 are you going to do?

20 UNIDENTIFIED SPEAKER: We're trying.  
21 We're trying.

22 MS. KWAN: Okay. We can see and hear you.

23 MR. MONTGOMERY: Yes. I -- I hear you.

24 Are you able to -- to hear me now?

25 CHAIR GIOVANNI: Yes, we hear you now, Mr.

1 Montgomery. Please state your full name and your  
2 address.

3 MR. MONTGOMERY: Thank you. I'm Steven  
4 Lee Montgomery, and I live at 94 (audio disruption).

5 I've had the privilege to serve five busy  
6 years as a member of the Land Use Commission after  
7 an appointment by Governor Cayetano, well before  
8 Zoom tech allowed these hybrid meetings.

9 CHAIR GIOVANNI: Hold up. Hold up. Just  
10 -- all I want's your name right now. So do you  
11 swear that the testimony you're about to give will  
12 be the truth?

13 MR. MONTGOMERY: Yes, I do.

14 CHAIR GIOVANNI: So please proceed. You  
15 have two minutes.

16 MR. MONTGOMERY: Thank you. I served  
17 years as a member of the Commission, well before  
18 Zoom, and having lived since 1988 on a former Oahu  
19 ag land in an affordable home built by the Horita  
20 Company in upper Waipahu.

21 I have an urgent response to the veiled  
22 proposal in SB28, because it could permit as few as  
23 three of the Commission's nine members to approve a  
24 redistricting. I cannot recall any housing docket a  
25 component of affordable housing that failed to earn

1 six votes and approval. In fact, when Alexander and  
2 Baldwin asked to urbanize ag land for shops near the  
3 Maui's airport, the chairman, Clarence Ng, convinced  
4 the applicant to add an affordable housing section.

5 In Kohala, we on the Commission voted to  
6 extend by many years the time and amount of -- for  
7 the Aina Lea LLC to finish building 385 affordable  
8 housing units agreed upon. This bill implies that  
9 the LUC has disapproved affordable housing dockets,  
10 but gives no evidence in its preamble.

11 Please defend the Landing Commission's  
12 record of diligent and strong work to support  
13 housing. Please continue to ask questions for the  
14 record to ensure land use changes protect Hawaiian  
15 cultural practitioners and citizens nearby.

16 The county general plan process is no  
17 substitute for LUC and finding the best balance  
18 between varied public interests. I can recall sad  
19 cases of neighbors with a provincial so-called NIMBY  
20 view having intimidated elected county council  
21 members who blocked vital affordable housing plans  
22 for Kailua.

23 As you consider the positions on this and  
24 the other 11 bills, please do protect food security,  
25 public trust resources, climate resilience, and

1 affordable housing, and the LUC fact finding that  
2 entails rigorous, detailed, and objective balance  
3 between public interest. In conclusion, please  
4 oppose this bill in particular. Thank you.

5 CHAIR GIOVANNI: Thank you, Mr.  
6 Montgomery. Please stand by for questions from the  
7 commissioners.

8 Commissioners, any questions for Mr.  
9 Montgomery? Seeing none, Mr. Montgomery, thank you  
10 for your time today. We appreciate your testimony.

11 MR. MONTGOMERY: You're welcome.

12 CHAIR GIOVANNI: Ms. Kwan, who is next.

13 MS. KWAN: I'm going to promote Wayne  
14 Tanaka.

15 CHAIR GIOVANNI: Thank you. Mr. Tanaka,  
16 can you give me a mic check?

17 MR. TANAKA: Testing.

18 CHAIR GIOVANNI: Thank you, Mr. Tanaka.  
19 Please state your name and address, and then I'll  
20 swear you in.

21 MR. TANAKA: Wayne Tanaka, 46271 Kahuhipa  
22 Street, Kaneohe 96744.

23 CHAIR GIOVANNI: Thank you. Do you swear  
24 the testimony you're about to give will be the  
25 truth?

1 MR. TANAKA: Yes, I do.

2 CHAIR GIOVANNI: Please proceed. You have  
3 two minutes.

4 MR. TANAKA: Okay. Thank you. Thank you,  
5 Chair. And you know, thank you everyone on the  
6 Commission for having this conversation. I also  
7 want to give staff a ton of credit, sounds like they  
8 had a lot of last minute scrambling to do with all  
9 the testimonies they've received.

10 So I'm speaking to agenda item 6, but also  
11 generally about your positions on some of the  
12 measures before you today. I just want to, you  
13 know, note that, you know, you've all agreed to  
14 administer land use laws to uphold our constitution.  
15 I believe you've all taken training courses by  
16 commission staff, by the law school regarding some  
17 of your obligations and the ways in which you  
18 fulfill them as the Land Use Commission.

19 But I -- I do want to express a bit of  
20 concern about comments in previous meetings  
21 suggesting that the Land Use Commission try to, you  
22 know, say, modify basic Supreme Court precedent with  
23 respect to Native Hawaiian constitutional rights.

24 You know, there have been comments made  
25 that's in your favor reducing your very critical

1 responsibility to make sure that we make the best  
2 use of our limited lands, right, and not just for,  
3 you know, folks here today, but for our kids and  
4 grandkids. And just like Land Use decisions from  
5 30/40 years ago continues to impact us for better or  
6 worse, the decisions you make will impact our  
7 landscape and our community and ability really to  
8 survive here in islands for decades into the future.

9           And so housing is important, but so is  
10 food security, you know, so are native climate  
11 rights, so is climate resilience, affordable housing  
12 for all income levels, for job -- you know, job  
13 creation. And that's what you're here to do, and  
14 that's what we really depend on you to do.

15           And so to be honest, you know, just to  
16 summarize, I think it'd be inappropriate to walk  
17 back on some of the commitments you've made by  
18 supporting measures, you know, like this measure,  
19 like other bills on the agenda that would -- you  
20 know, like the previous testifier mentioned, like,  
21 try to substitute your rigorous fact finding process  
22 and balancing of interest with that of the colonies,  
23 which, you know, as I understand in practice is much  
24 less rigorous, is much less transparent and clear  
25 about how the decisions are being made.

1           And so happy to answer any -- any  
2 questions. Otherwise, you know, I just urge a lot  
3 of caution and reflection before you endorse, you  
4 know, the measure under this agenda item and in  
5 agenda items 7 through 11 and 13. And thank you so  
6 much.

7           CHAIR GIOVANNI: Thank you for your  
8 testimony. I have to ask you to remain for any  
9 questions from commissioners. Thank you, Mr.  
10 Tanaka. Appreciate you taking the time today.

11           MR. TANAKA: Thank you.

12           CHAIR GIOVANNI: Who's the next one? Ms.  
13 Kwan?

14           MS. KWAN: The next one signed up is  
15 Healani. I will promote her now. Healani, can I  
16 get a mic check and video?

17           MS. SONODA-PALE: Sure. Aloha. My name  
18 is Healani Sonoda-Pale.

19           CHAIR GIOVANNI: Ms. Sonoda-Kale (sic),  
20 could you -- just to remind you, you're still under  
21 oath from your previous testimony earlier today. So  
22 we're -- agenda item now is Senate Bill 28. So  
23 please proceed with any comments you have. You have  
24 two minutes.

25           MS. SONODA-PALE: Sure. So aloha. Ka

1 Lahui is deeply concerned with the future of our  
2 aina and the well-being of our people in generations  
3 to come. We urge you to uphold your statutory  
4 responsibilities and maintain your critical role in  
5 safeguarding the public interests in major land use  
6 decisions. Now more than ever, the Land Use  
7 Commission must stand firm in its kuleana and ensure  
8 that Hawaii's lands are stewarded with care,  
9 foresight, and respect for the needs of its own  
10 people.

11           The Land Use Commission's founding purpose  
12 -- so the Land Use Commission was established in  
13 1961 in response to growing concerns over unchecked  
14 development, loss of agricultural lands, and  
15 haphazard urban sprawl. Before its creation, land  
16 use decisions were left solely to individual  
17 counties, which often prioritize short-term economic  
18 gains over long-term environmental and cultural  
19 sustainability.

20           Your purpose, you were created to prevent  
21 uncontrolled development that threatens Hawaii's  
22 natural cultural resources, ensure responsible land  
23 management by classifying lands in the four  
24 districts, upholding public trust responsibilities,  
25 including water resources, preserving Kanaka Maoli



1 traditional and customary rights, and safeguarding  
2 food security and hold large scale development  
3 accountable by requiring rigorous review processes  
4 before district boundary changes.

5           For over six decades, the LUC has served  
6 as a critical safeguard against reckless land use  
7 decision, standing as a check against speculative  
8 development and ensuring that Hawaii's precious land  
9 is being used wisely. The LC -- LUC support of the  
10 -- the bills that are listed, including the bill  
11 that we're currently on, I think it's HB 2.8 (sic),  
12 directly it contradicts its founding -- your  
13 founding purpose and mission.

14           Instead of fulfilling your kuleana to  
15 protect land and people, the Commission is now  
16 entertaining legislation that prioritizes  
17 developers, weakens your own public -- your own  
18 powers, and weakens public oversight and threatens  
19 the long-term sustainability of our islands. And I  
20 just want to remind you we are in a water crisis,  
21 that we are in a climate crisis, and we're in  
22 unprecedented times. Look at what happened with the  
23 Lahaina fires.

24           CHAIR GIOVANNI: Thank you. I have to ask  
25 you -- I have to ask you to conclude your remarks.

1 MS. SONODA-PALE: Yes. So we strongly  
2 oppose Senate Bill 28 and all the -- the other bills  
3 following this bill. But we will testify on the  
4 other bills, as well. Thank you.

5 CHAIR GIOVANNI: Thank you very much.  
6 Any questions for this witness?

7 Thank you very much for coming forward.

8 Ms. Kwan, do we have anything else on the  
9 Zoom?

10 MS. KWAN: Seeing none in the Q&A feature,  
11 Chair.

12 CHAIR GIOVANNI: Do we have anybody in the  
13 room that wants to testify?

14 MS. KWAN: No, Mr. Chair.

15 CHAIR GIOVANNI: Okay. So I'm now going  
16 to call on staff who has reviewed this bill and ask  
17 for the staff to summarize it and offer any  
18 recommendations. Before I do that, I'd like you to  
19 read, for our fellow commissioners, the memo you  
20 received from the deputy -- from the director of  
21 DBEDT.

22 MR. ORODENKER: Thank you, Mr. Chair. We  
23 received -- we received a reminder on the guidance  
24 and parameters for testifying on non-administrative  
25 measures from the director's office. It is -- it

1 states that it is important that our testimony  
2 aligns with DBEDT's framework, avoids conflicting or  
3 duplicating positions, and reflects fiscal  
4 restraints.

5 Key areas of focus. Informational  
6 briefings provide updates as needed, ensuring  
7 consistency with DBEDT's strategic priorities.

8 Administrative bills. (Inaudible) support  
9 for key DBEDT initiatives as outlined in the  
10 Economic Landscape Presentation, which this  
11 Commission was not privy to.

12 Non-administrative bills. Generally,  
13 testimony should be comments only, unless  
14 specifically requested by the committee chair or  
15 introducer.

16 Preparing testimony. Align with DBEDT's  
17 framework, testimony should not duplicate or  
18 conflict with DBEDT's strategic priorities.

19 Focus on program priorities. Testimony  
20 should emphasize the impact on existing DBEDT  
21 programs and resources.

22 Reorganization bills. These measures may  
23 delay progress due to administrative restructuring.  
24 Testimony should reflect the potential impacts.

25 New programs. Consider whether the

1 proposed changes improve service delivery and  
2 effectiveness.

3 Not administrative appropriations. Use  
4 boilerplate language stating that funding requests  
5 do not impact administrative budget priorities.

6 Bills assigning DBEDT implementation.  
7 Some measures may not be well defined and could  
8 assign responsibility for DBEDT without clear  
9 alignment. The agency or program best suited to  
10 lead will be determined based on the bill's purpose.

11 Please ensure that testimony is reviewed  
12 for alignment and consistency before submission. If  
13 there are any questions regarding DBEDT's position,  
14 reach out before finalizing testimony.

15 CHAIR GIOVANNI: What does that mean?

16 MR. ORODENKER: In a nutshell, we don't  
17 know. What -- what it means is that with regard for  
18 informational briefings, which the Commission is not  
19 concerned with, we're just supposed to provide the  
20 information as needed.

21 With regard to administrative bills that  
22 support DBEDT's initiatives, we're supposed to  
23 provide support. For non-administrative bills, we  
24 can't oppose a bill, but we can provide comments.  
25 So if there is something in the bill that is fixable

1 or inherently wrong, we can provide comments on  
2 that. But we're not supposed to submit testimony  
3 that says we oppose HB number or SB number whatever.

4 CHAIR GIOVANNI: Okay. Commissioners, any  
5 questions or comments on this directive?  
6 Commissioner Carr Smith.

7 COMMISSIONER CARR SMITH: May we have a  
8 copy of that please?

9 MR. ORODENKER: Yes. We -- we can post  
10 that to the -- to the website.

11 COMMISSIONER CARR SMITH: Okay.

12 CHAIR GIOVANNI: Commissioner Lee.

13 COMMISSIONER LEE: Yeah. Thank you for  
14 expounding on that. So this is -- is this different  
15 from previous guidance?

16 MR. ORODENKER: No, this is consistent  
17 with this administration's guidance with regard to  
18 testimony.

19 COMMISSIONER LEE: Sounds like --

20 CHAIR GIOVANNI: What do you mean by  
21 previous, Commissioner Lee? You mean previous this  
22 --

23 COMMISSIONER LEE: Well, because I -- I  
24 recall that last year and previous years, there was  
25 testimony in opposition to bill, so I'm just asking

1 for clarification. And it sounds like madam  
2 director has some comment.

3 CHAIR GIOVANNI: One second. I got swear  
4 you in, Mary Alice. Mary Alice, please state your  
5 name and affiliation.

6 MS. EVANS: Mary Alice Evans, Director of  
7 the Office of Planning and Sustainable Development.

8 CHAIR GIOVANNI: Do you swear your  
9 testimony will be the truth?

10 MS. EVANS: I do.

11 CHAIR GIOVANNI: Can you add clarification  
12 in response to Commissioner Lee's question?

13 MS. EVANS: Yes. Those directives apply  
14 to DBEDT staff and to DBEDT attached agencies where  
15 staff is delegated to provide testimony. Chapter  
16 2635 gives boards and commissions the ability to  
17 have policy autonomy outside of the directives --  
18 policy directives of a head of a department to which  
19 the board or commission is administratively  
20 attached.

21 So I'm not an attorney, and you should  
22 confer with your own DAG. But it is my  
23 understanding over many decades that boards and  
24 commissions can take positions if it's a policy  
25 matter that is germane to your enabling statute.

1 CHAIR GIOVANNI: Thank you. Any question  
2 or comment on that, Mr. Orodenger?

3 MR. ORODENKER: Yeah. To answer  
4 Commissioner Lee's question directly, yes, there  
5 have been times when agencies have submitted  
6 testimony in opposition, but that has to be cleared  
7 through the director first before we can do that.

8 CHAIR GIOVANNI: What do you mean by  
9 cleared?

10 MR. ORODENKER: In other words, we have to  
11 make our case to the director as to why we need to  
12 -- to oppose a measure rather than just submit  
13 comments.

14 CHAIR GIOVANNI: And you -- you need a  
15 formal approval from the --

16 MR. ORODENKER: Yes.

17 COMMISSIONER LEE: I'd like to make a  
18 motion to understand our powers, duties, privileges,  
19 immunities, and liabilities. I believe that's  
20 section HRS 92-5(a)(4).

21 COMMISSIONER CARR SMITH: Second.

22 CHAIR GIOVANNI: Certainly. So moved by  
23 Commissioner Lee to go in executive session,  
24 seconded by Commissioner Carr Smith to confer with  
25 our Deputy Attorney General. In favor, signify by

1 saying aye.

2 THE COMMISSION: Aye.

3 CHAIR GIOVANNI: Any opposed? No.

4 Ms. Kwan, can you arrange for executive  
5 session? We'll take a recess while you do that, and  
6 you let me know when you're ready. Thank you.

7 (Recess taken.)

8 CHAIR GIOVANNI: Okay. It's 12:20. We're  
9 back on the record in regular session. So we had  
10 adjourned for executive session for questions of the  
11 legal nature with our Deputy Attorney General. And  
12 they pertain to guidance we received in terms of the  
13 positions that the Commission independently can  
14 make, both whether they be in favor or in opposition  
15 or questions we are independent of -- and basically,  
16 we're an independent commission, and we can take  
17 such.

18 Ms. Steed, did I represent that correctly?  
19 Thank you. So now we'll proceed -- I will get to  
20 that. Mr. Miyasato, do you have any question?

21 COMMISSIONER MIYASATO: Yeah, I do, Chair.  
22 Thank you. Yeah. I received a phone call during  
23 the break. Yeah. The reason I'm not there is I'm  
24 covering for some friends that went to a convention,  
25 and I got a phone call that there's a broken water



1 line. I'm trying to get someone else to address it,  
2 but if they don't get back to me, I may have to  
3 leave in an hour.

4 CHAIR GIOVANNI: Thank you very much.  
5 Appreciate the -- just give us a heads up, and we'll  
6 proceed accordingly.

7 COMMISSIONER MIYASATO: Okay. Thank you.

8 CHAIR GIOVANNI: We've also learned that  
9 Commissioner U'u will be able to stay with us till  
10 4:00, so I think we'll have a full quorum in any  
11 event, even if you have to leave. And Commissioner  
12 Yemane decides to leave and Commissioner Kamakea-  
13 'Ohelo is not present, so we have seven or six under  
14 all circumstances. So thank you.

15 Okay. At this time, I'd like to call on  
16 the commission staff. Mr. Orodenger, would you  
17 please provide us a brief summary of SB28, your --  
18 any analysis that you want to share, and also any  
19 recommendations you have regarding testimony.

20 MR. ORODENKER: Thank you, Mr. Chair.  
21 SB28 amends chapter 205 to provide that a simple  
22 majority of affirmative votes of the members present  
23 and qualified to vote on the Land Use Commission  
24 shall be necessary for any boundary amendment up  
25 until -- or presently, it takes six affirmative

1 votes.

2 Staff has concerns consistent with some of  
3 the public testimony that we heard that it would  
4 result in some situations where only three  
5 commissioners could approve a district boundary  
6 amendment. District boundary amendments and chapter  
7 205 was originally promulgated or considered to be  
8 significant. And that is why a super majority was  
9 authorized or was required for a district boundary  
10 amendment to occur.

11 I would note that it's never been in a  
12 situation where there's been a 3-2 or 3-3 vote on  
13 the district boundary amendment. But the other  
14 concern that staff has is that important  
15 agricultural lands applied to this change in the  
16 provision. Important agricultural lands would still  
17 require six affirmative votes. And it's not  
18 uncommon for us to get district boundary amendments  
19 where we have a mix of regular agricultural land and  
20 important agricultural lands.

21 Our recommendation is that we could  
22 provide testimony is simply stating that we don't  
23 feel that this is necessary but is the Commission's  
24 prerogative.

25 CHAIR GIOVANNI: So you're recommending

1 testimony that's -- that is not necessary why? I  
2 mean, does it go back to these concerns about a  
3 super (audio disruption) that only three votes might  
4 result in a DBA?

5 MR. ORODENKER: Well, yeah. And you know,  
6 it was pointed out by one of the public testifiers  
7 that there -- it doesn't seem to be any basis for  
8 this. I mean, there's nothing -- no evidence or any  
9 experience that would suggest that this would result  
10 in more DBAs being granted.

11 CHAIR GIOVANNI: So basically, you're  
12 recommending comment, not support or opposition; is  
13 that correct?

14 MR. ORODENKER: I think our comment would  
15 be that it's not necessary.

16 CHAIR GIOVANNI: Comment is it's not  
17 necessary. Okay. Commissioners. Commissioner Lee.

18 COMMISSIONER LEE: Sure. Thank you. I  
19 want to note that this bill has been introduced  
20 before, and it's introduced now by the chair and the  
21 vice chair of the House -- Senate Housing Committee,  
22 and the -- the vice chair used to be the chair of  
23 the House side as well.

24 And I'm not sure I agree that it's not  
25 necessary. I mean, I don't agree that it should be

1 three people making this decision when deck rulings  
2 and other decisions by this body are done by a  
3 simple majority of five. So I guess I want to hear  
4 why the DBA should be six when other decisions are  
5 five from the executive officer.

6 MR. ORODENKER: Well, as -- as I  
7 previously mentioned, it's always been the position  
8 of the legislature prior to this, because things can  
9 change, that district boundary amendments are  
10 significant and they require a large amount of  
11 discussion.

12 And there are many issues that are of  
13 concern whenever there's a district boundary  
14 amendment presented and that they should be  
15 contemplated fully, and there should be a majority  
16 -- a super majority of the Commission rendering that  
17 decision when it's going to have such a large impact  
18 on cultural gathering rights, the environment, state  
19 expenditures, and all the other factors that are in  
20 our rules that we were -- expressed as were -- as  
21 issues that were of concern to us.

22 COMMISSIONER LEE: Okay. Thanks. When  
23 you stated earlier that there hasn't been a case  
24 where there's been five, so -- and that it didn't  
25 make a difference. So why not five then?

1 MR. ORODENKER: I don't have an answer to  
2 that. As -- like I said, I don't think this is  
3 necessary. We've never had a problem, and it's  
4 never slowed down anything.

5 CHAIR GIOVANNI: So just to -- point of  
6 clarification, please, on the bill as -- as drafted.  
7 Does it state a simple majority of the quorum, or  
8 does it state five?

9 MR. ORODENKER: It says a simple majority  
10 of the members present. So quorum would be five, so  
11 three could theoretically grant the DBA.

12 CHAIR GIOVANNI: Right. So now the  
13 question moving six to five is not articulated in  
14 the draft?

15 MR. ORODENKER: No, it is not. So if we  
16 were going to submit testimony, we would -- our  
17 testimony would say: Well, our comments are that a  
18 simple majority of the members present is excessive.  
19 We would be okay if it was five.

20 COMMISSIONER LEE: Chair, I'd like to  
21 follow up.

22 CHAIR GIOVANNI: Commissioner Lee.

23 COMMISSIONER LEE: Yeah, I think as  
24 written, I would be opposed to three people voting,  
25 because that's even less than, you know, any -- any

1 other decision. But --

2 CHAIR GIOVANNI: You agree that's the way  
3 it's drafted?

4 COMMISSIONER LEE: Yes, that's the way  
5 it's drafted. That's how I read it. But I -- I  
6 want to see how everyone else feels about providing  
7 input that five might be more acceptable. I mean, I  
8 don't know how everyone else feels. I'm -- I would  
9 be okay with five, but I'd be interested to see if  
10 we could provide testimony that no, three is too  
11 little, but five might be more acceptable, versus  
12 just opposing this bill altogether.

13 So I mean, I don't -- I'm not ready to  
14 make a motion yet, but, you know, I'd like to hear  
15 what everyone else's thoughts are on five.

16 CHAIR GIOVANNI: Anybody else have a  
17 thought?

18 COMMISSIONER KAHELE: You know, I want to  
19 make a comment.

20 CHAIR GIOVANNI: Commissioner Kahele.

21 COMMISSIONER KAHELE: Yeah. So right now,  
22 there's no scheduled hearing, right, for this bill.

23 MR. ORODENKER: No, there is not. No.

24 COMMISSIONER KAHELE: Yeah, there's no  
25 scheduled hearing. So we're going to take the

1 position as -- you know, it's not necessary. Why  
2 don't we take the position, as -- as commissioners  
3 or as the head of land use, and either we're up or  
4 down. I -- I don't believe we should be taking a  
5 vote with just a majority of the people that's  
6 present at the -- at the meeting. Because like  
7 Brian just mentioned and Dan just mentioned, we had  
8 three people here at the meeting that they going to  
9 decide whether they're going to be approving a  
10 district boundary amendment.

11 So anyway, Brian is recommending that we,  
12 instead of six affirmative votes, make an amendment  
13 to the current bill for five. Whatever the decision  
14 is going to be made, I think we should make the  
15 decision and just -- just stay somewhat neutral.  
16 Anyway, that's -- that's my take.

17 CHAIR GIOVANNI: So Commissioner Kahele,  
18 if I understand you correctly, you're recommending  
19 that we consider taking a position on the bill as  
20 drafted as opposed to getting into word smithing the  
21 bill itself?

22 COMMISSIONER KAHELE: Yes.

23 CHAIR GIOVANNI: Okay. I agree with that  
24 personally, but commissioners. Commissioner U'u.

25 COMMISSIONER U'U: Yeah. I'd like to

1 share my mana'o. I -- I heard that the position  
2 could be worst -- in a worst case scenario that  
3 three people could vote to decide on approval of a  
4 DBA, but at the same time three people could deny  
5 it. So, you know, this is how I look at it. I look  
6 at it as -- you know, as Hawaii. I don't -- I don't  
7 need to go out there and state the obvious  
8 sometimes. Like food security, Hawaiian traditional  
9 practices, I don't need to. It's ingrained in us at  
10 birth.

11 But people try to say it all the time at  
12 times, like I don't know why. And I get it. But  
13 the part is it's instilled at a young age. It's  
14 instilled way before my time. So when people  
15 misstate me and say: Are you not for the  
16 environment? I'm like: Dude, I was ingrained. I  
17 was embedded. I was embedded. We came here by  
18 canoe.

19 And so the part is -- the issue is when 6  
20 percent of land on Maui is designated urban, now we  
21 got a problem. That's the issue. That's the  
22 biggest issue right here. I mean, we protected it  
23 so good, right? We -- I don't know what the  
24 percentage is ag. I think 55 percent is ag and 40  
25 percent is what -- what have you.



1           What I'm saying is it seems to me when it  
2 will keep these bills that we pay, there is a  
3 breakdown somewhere for housing. If you just take  
4 all this we're looking at, the breakdown is there's  
5 not enough. There's out migration of all people --  
6 my people.

7           If this helps move the needle to keep all  
8 people home, I think -- more importantly bring them  
9 back, because people always coming, but not  
10 necessarily coming back. And my goal is to have  
11 them to come back. So -- and when I hear people say  
12 like, you know, it's -- it's not proving that it's  
13 needed. Well, it's not proving it's not needed also  
14 though.

15           So I'm okay with this as proposed. And I  
16 always look at it this way. If it move the needle,  
17 if we all look at (inaudible), I think some of the  
18 decisions made over the course of the years who have  
19 a lack of homes statewide, I think some -- everyone  
20 got to take some responsibility on it, right. And  
21 as we say laulima, many hands. And I know some  
22 people see it as it's not our kuleana, and maybe  
23 it's not. I think it's mine.

24           So I will support the bill as written.  
25 That's my two cents. But again, I will support

1 whatever the body decides to support. And that's  
2 why I always like to see the grin. Like, I like  
3 when they hear people say certain things, because it  
4 makes me think about what my thought process would  
5 be. But that's why we collaborate with the nine  
6 members. But just have -- have this one say at the  
7 end.

8 I suppose I leave her because of other  
9 obligations. Mr. Yamane has other obligations. Mel  
10 has to go, and we just heard that Myles might have  
11 to leave. I have faith if I left that people could  
12 do a good job without me. I have absolute faith in  
13 that. It's not my -- you know I just say it's hard  
14 to find people to serve -- Maui County, we have 70-  
15 something vacancies on boards and commissions, and  
16 it holds up a lot of things.

17 So the part is, like I'm not -- I wouldn't  
18 use the word arrogant, but I would say I'll be okay  
19 that I trust in people who make decisions if I'm not  
20 there. So that's my manao. I would support it as  
21 written, but then again this mine, one of nine.  
22 Thank you.

23 CHAIR GIOVANNI: Thank you, Commissioner.

24 COMMISSIONER KAHELE: You know, if I may,  
25 Chair.

1 CHAIR GIOVANNI: Commissioner Kahele.

2 COMMISSIONER KAHELE: You know, I agree  
3 with Mr. U'u, not in agreement of how the bill is  
4 written. We've got a problem with jobs. We've got  
5 a problem with the cost of living. We got a problem  
6 with housing, affordable housing. We average 15,000  
7 of our Native Hawaiians or citizens that live in  
8 Hawaii that's moving up to the mainland. Why? We  
9 priced out of paradise.

10 If we agree to allow three people on this  
11 board to make a decision on who's going to be coming  
12 in and -- and requesting for a district boundary  
13 amendment that's not looking at building affordable  
14 homes, yeah, we might be in trouble because  
15 everybody's looking at money.

16 All these developers coming here, except  
17 for the people that's requesting for 201 -- 201H  
18 status in building affordable homes, we might be in  
19 big trouble if we get the wrong people sitting on  
20 this commission. And right now, we got good -- got  
21 good people here. We get the wrong people sitting  
22 here making decisions on who's going to be able to  
23 get this district boundary amendments and building  
24 pricey homes, it's going to push more of our  
25 families up to the mainland.

1           And I got grandsons, I got granddaughters  
2 that moved up to the mainland because they not going  
3 to survive here. So anyway, you know, I just wanted  
4 to make that comment. I -- I am not for this bill,  
5 and I think we should just keep the status quo and  
6 only for the best interest of our Native Hawaiians  
7 and the people that's currently living here with  
8 Hawaiians, Orientals, Caucasians. This is our  
9 island. This is our state. We've been priced out  
10 of it. Thank you.

11           CHAIR GIOVANNI: Thank you, Commissioner.  
12 I just got one clarifying question for -- for staff.  
13 Do you recall a DBA that failed because it didn't  
14 get six votes, it only got five, in history?

15           MR. ORODENKER: We had one or two, but it  
16 was before my time. So I don't know. Maybe Scott  
17 can recall.

18           CHAIR GIOVANNI: Scott.

19           MS. KWAN: Staff needs a recess. The  
20 audio is muffled. I need to unplug and replug.

21           CHAIR GIOVANNI: Okay. Let's take a very  
22 brief three minute recess. It's 12:37.

23           MS. KWAN: Thank you.

24           (Recess taken from 12:37 to 12:39 p.m.)

25           CHAIR GIOVANNI: So I had a question on

1 the table. We're going to come back in session.  
2 It's -- I've got 12:39, back in session. Is  
3 recording working now? Thank you.

4 So the question on the table to staff was  
5 any history you can share with us where 3, 4, 5, 6  
6 votes were of significance in consideration of a DBA  
7 in recent history? I mean, what's driving this  
8 thing?

9 MR. DERRICKSON: This is Scott Derrickson,  
10 chief planner. I -- I can't tell you what's driving  
11 this bill, because I don't think that it's supported  
12 by any evidence. It's not solving a problem. But  
13 in -- to answer your question specifically, I  
14 believe in the last 15 years there have -- there has  
15 been at least one incidence where something hasn't  
16 been approved because of five votes.

17 But again, it's rare. And usually what  
18 happens is a petitioner reads the room and  
19 recognizes that a project doesn't appear to have  
20 garnered enough votes to -- to approve. And in some  
21 cases they've withdrawn the petition. In some cases  
22 they've asked to -- more time to go back, make some  
23 changes, and come back in.

24 The approval rate of the Commission  
25 historically is 95-plus percent. There's been

1 hardly any times when the Commission has denied a  
2 petition.

3 CHAIR GIOVANNI: Thank you.

4 Commissioners, any other questions? Commissioner  
5 Carr Smith.

6 COMMISSIONER CARR SMITH: Thank you. I  
7 think we should keep that in perspective. Because I  
8 know for Hawaii Island, it's been a good 10 years  
9 since there was a DBA at all. So I mean, I think  
10 we're also looking at this bill and with the worst  
11 case scenario, and I'm not sure that -- who knows  
12 what the intention was, but I'm not sure that we  
13 should necessarily look at it that way.

14 Maybe members present should not be in  
15 there. Maybe it should be quorum, but then that's  
16 still a low amount. And I understand the concern  
17 about the low amount, but yet we need to be able to  
18 get things done. And if we look at all these bills  
19 on our list, several of them speak to DBAs. And I  
20 think there's a reason why counties are wanting to  
21 take more control over DBAs, and that may be because  
22 it's challenging for people to get through us.

23 So I think that the six votes goes back a  
24 long ways. I think that times have changed, and I  
25 think it's reasonable for us to consider taking the

1 opportunity to say maybe it should be five now,  
2 along with everything else.

3 COMMISSIONER U'U: Chair.

4 CHAIR GIOVANNI: Commissioner U'U.

5 COMMISSIONER U'U: And, you know, my  
6 belief is that, you know, if there's ever a point in  
7 time when we get too much affordable housing to stop  
8 it, but it's not going to be during my lifetime.  
9 But I would agree with -- with Commissioner Carr  
10 Smith that, you know, I think most people here  
11 served on boards prior. So even though we can go  
12 back in your history books and look at any time  
13 where -- where the votes was that close.

14 I sat on commission -- planning  
15 commission, I think that's kind of important within  
16 the SMA area. We -- we 5-to-4 a few times that I  
17 can think off the top of my head. And so I'll be  
18 okay with that. It's the majority, not the super  
19 majority. I'll be fine with that in implementing  
20 something like that. So that would work for me.

21 CHAIR GIOVANNI: Commissioner Lee.

22 COMMISSIONER LEE: Thank you, Chair. I  
23 just like to say that if you look at some of the  
24 other bills that we're going to consider today, they  
25 want to take the State LUC completely out of any

1 vote whatsoever. So it'd be like zero votes to  
2 approve a project. It would just be decided on the  
3 county level.

4 I'm -- I'm okay with doing something  
5 different and bold, you know. I don't think three  
6 is right, but I think five votes consistent with  
7 dec rulings and other votes that we might have,  
8 I'm good with that. So I'll -- I'll make a motion  
9 that --

10 CHAIR GIOVANNI: Not yet. I'm still in  
11 discussion phase before -- I'll give you the  
12 opportunity to make a motion.

13 COMMISSIONER LEE: Yeah. See now this is  
14 an example of why we're not following Sunshine Law.  
15 Because if we were -- I mean, Robert's Rules of  
16 Orders. Because if we were, I could make a motion  
17 anytime.

18 CHAIR GIOVANNI: Okay. Make a motion.

19 COMMISSIONER LEE: So I motion that we --  
20 we -- that the executive officer testifies that this  
21 Commission would support DBA approval with five  
22 votes. Because I think the legislature wants to  
23 hear from us. We're the people who have been given  
24 the responsibility to look at these things. And I  
25 -- I don't think five goes that far, because some of



1 the other proposals are that we have zero votes.

2 And if people are self-censoring  
3 themselves like Mr. Derrickson said then I think  
4 that's a problem, if people are saying that I'm not  
5 even going to go, because I -- I don't think I can  
6 get six votes. Five might be an easier hurdle, so  
7 --

8 CHAIR GIOVANNI: Can I -- can I ask if you  
9 would accept a -- a friendly amendment that you  
10 would -- this Commission support a DBA approval of  
11 five votes, provided it doesn't include IAL?

12 COMMISSIONER LEE: Oh, absolutely.  
13 Absolutely. And for those who might even have  
14 heartburn with that, we could even put a sunset date  
15 on it, say five years. You know, this is -- it's up  
16 for consideration. I'll add that in just to give  
17 everyone extra caution that this is not something  
18 that we -- you know, we feel so strongly about, that  
19 we're just going to throw everything to the wind,  
20 but that there should be a window where we try this  
21 out and see what happens, so --

22 CHAIR GIOVANNI: Well, isn't it up to the  
23 legislature to bring a bill back to us -- in front  
24 of us.

25 COMMISSIONER LEE: No, you can -- you can

1 amend the bill so that there's a sunset date. In  
2 fact, some of the other bills --

3 CHAIR GIOVANNI: Yeah, but we're not the  
4 legislature.

5 COMMISSIONER LEE: No.

6 CHAIR GIOVANNI: We're just offering  
7 comment.

8 COMMISSIONER LEE: Right. But that would  
9 be my recommendation is that this is what we would  
10 support, five votes with a five year sunset date.  
11 So I made that motion, and I'm open to hearing if  
12 anyone will second or have any other comment or  
13 maybe even amending my motion. Thank you.

14 COMMISSIONER KAHELE: And you know, Brian,  
15 we can live with that. I believe we can live with  
16 the majority of five. I -- I just wasn't okay with  
17 the language that's currently written in the bill.  
18 And Ms. Carr brought up a good point. We got  
19 planning projects out there that's kind of like  
20 stalled. We need to move them. But you know, we --  
21 we're just hoping -- keep our fingers crossed that  
22 Waterland (phonetic) will schedule a hearing for --  
23 for the director to be able to make an amendment to  
24 the current bill.

25 And with that -- no, Brian, I support your

1 -- your motion. I'll second it.

2 CHAIR GIOVANNI: So let me offer us  
3 another friendly amendment. Would you accept a  
4 friendly amendment that says that we are not in  
5 support as written. We're under circumstances that  
6 three could carry?

7 COMMISSIONER LEE: Yes, I would support  
8 that.

9 CHAIR GIOVANNI: Okay. Do I have a second  
10 to that --

11 COMMISSIONER KAHELE: Second.

12 CHAIR GIOVANNI: -- friendly, okay. So  
13 the motion as I --

14 COMMISSIONER CARR SMITH: Chair. Go  
15 ahead.

16 CHAIR GIOVANNI: Do you have a amendment  
17 to?

18 COMMISSIONER CARR SMITH: No. I just -- I  
19 don't know why we're adding in the important ag  
20 lands because it's not in here.

21 CHAIR GIOVANNI: Because the -- the  
22 executive director stated that some DBAs come forth  
23 where a portion of the parcel that's under  
24 consideration includes IAL and IAL require six  
25 explicitly.

1           COMMISSIONER CARR SMITH: Okay. Okay. I  
2 got you. Thank you.

3           CHAIR GIOVANNI: Correct. Okay. So the  
4 motion on the floor, if I understand correctly, is  
5 the following: This Commission's position is one  
6 that is in opposition to the bill as drafted, where  
7 under some circumstances, three votes of this  
8 commission could carry an approval of a DBA.  
9 However, we would support amendment that requires  
10 five votes at a minimum of the -- for an approval of  
11 a DBA, provided the petition did not include any  
12 portion of which IAL land.

13           COMMISSIONER LEE: And -- and the five  
14 year sunset.

15           CHAIR GIOVANNI: And if it does include  
16 IAL land, it would still require six votes, and  
17 furthermore it would sunset in five years.

18           COMMISSIONER LEE: Well stated.

19           CHAIR GIOVANNI: Thank you. Okay.  
20 Commissioners, comments, concerns on this motion.

21           COMMISSIONER YAMANE: Mr. Chair.

22           CHAIR GIOVANNI: Mr. Yamane.

23           COMMISSIONER YAMANE: Thank you, Mr.  
24 Chair. For the record, I'll be abstaining from any  
25 voting on any legislative matters. And I just want

1 to -- and this is my perspective, understand the  
2 Commission can choose to do something, cannot choose  
3 to do something. And I think I stated this in our  
4 previous meeting that this is something that I -- I  
5 personally don't want to be doing is reviewing every  
6 bills and voting on what we should be putting on the  
7 bills.

8           And like -- with all due respect to my  
9 commissioners, this is just my perspective, being in  
10 the legislature for 20 years and knowing how it  
11 operates, I -- I came into this position as a  
12 volunteer knowing that this entity is a regulatory  
13 body that abides by whatever laws and statutes are  
14 created.

15           And for example, this specific bill, let's  
16 say I am a commissioner -- let's say,  
17 hypothetically, this bill passes as is this session,  
18 and I came in as a commissioner next year. I just  
19 have to abide by that law. So I'm not here as a  
20 commissioner to make policy changes on whether LUC  
21 should exist or not. That's for the policymakers.

22           What I volunteered for was to listen to  
23 petitioners come in with their proposals on boundary  
24 amendments and make decisions based on the laws and  
25 rules that govern that process. That was why I came

1 into this position. And -- and I think I said this  
2 the last time, it's just -- I -- I think it's  
3 outside of this Commission to be doing that. Of  
4 course, that's just my perspective, with all due  
5 respect to the rest of commissioners.

6 And like -- like a law, if this law passes  
7 against us, we just need to abide by it. If this  
8 Commission chooses to go on this path where you're  
9 reviewing 14 bills on every meeting, then that --  
10 that's the way it is. I'll live by it. But I won't  
11 be voting for that. I'll be abstaining from any  
12 votes regarding any legislative matters going  
13 forward.

14 So thank you, Mr. Chair. And with that,  
15 I'd like to be excused. I need to run.

16 CHAIR GIOVANNI: Well, we're -- when we  
17 have a roll call vote, you want to stick around to  
18 abstain or -- okay. It's coming up pretty shortly.

19 CHAIR GIOVANNI: Commissioner Miyasato.

20 COMMISSIONER MIYASATO: Thank you, Chair.  
21 Yeah. I somewhat agree with Commissioner Yamane in  
22 a sense, where I was sort of prepared to hear and  
23 make, I guess, a -- hear what the staff had to say  
24 about the written bills.

25 You know, for my work, I've actually

1 authored legislation, and I'm retired now. So I  
2 feel the same way about kind of not getting -- not  
3 really wanting to have to think about amending and  
4 writing and lobbying. And I have no problem  
5 reviewing what's -- you know, things that impact  
6 land use, if it's detrimental, if it's helpful, and  
7 if staff feels, you know, we -- we really should  
8 give our opinion on the effects of it, whether  
9 positive or negative.

10 I don't mind that. But I wasn't prepared  
11 to consider amending and authoring amendments, and  
12 so I'm kind of having a hard time supporting that.  
13 I -- I would just rather have an opinion that this  
14 is going to impact -- could impact us negatively,  
15 and just not really support or oppose, but just the  
16 negative effects of this bill. So that's just my  
17 opinion. Thank you, Chair.

18 CHAIR GIOVANNI: Thank you, Commissioner.  
19 Commissioners, any further? Commissioner Kahele.

20 COMMISSIONER KAHELE: Can I ask a  
21 question?

22 CHAIR GIOVANNI: Of course.

23 COMMISSIONER KAHELE: How would one vote  
24 -- now it's six. And -- and we're going to -- we're  
25 going to ask the director to go up there and make an

1 amendment to the bill, if it gets heard, if it -- if  
2 it gets heard by Waterland and -- and I believe the  
3 Judiciary Committee. How would one vote affect any  
4 of the decisions that we've made in the past by  
5 changing it from five -- from six to five votes?

6 CHAIR GIOVANNI: I think that's the  
7 question I asked, and Mr. Derrickson said it might  
8 have affected one decision in the last 15 years.

9 COMMISSIONER KAHELE: Very good. Thank  
10 you.

11 CHAIR GIOVANNI: Is that correct, Mr.  
12 Derrickson?

13 MR. DERRICKSON: Yes, that's correct.

14 CHAIR GIOVANNI: Thank you. Commissioner  
15 U'u.

16 COMMISSIONER U'U: Just a comment. You  
17 know, prior to not being on the LUC, I heard people  
18 saying that they don't want to even come before the  
19 LUC. And so -- so with the potential of, I guess,  
20 giving a manao on changing the six to five, maybe  
21 it'll be more inviting to people to put in the  
22 application words that LUC again for potential homes  
23 for people. So that's -- that's how I see it.

24 CHAIR GIOVANNI: Thank you.

25 MR. ORODENKER: Chair, if I could comment.



1 CHAIR GIOVANNI: Please. Mr. Orodenger.

2 MR. ORODENKER: I mean, staff will  
3 obviously do whatever this Commission decides. But  
4 I need to make the point that we could submit  
5 testimony, and the chairs of the various committees  
6 could just ignore it, and we wouldn't get anywhere.  
7 It could also amount to them just not wanting to  
8 deal with it and not moving forward. So I -- I  
9 think we have to be aware of that.

10 CHAIR GIOVANNI: Thank you. Commissioner  
11 Lee.

12 COMMISSIONER LEE: Thank you, Chair. I  
13 respect what Commissioner Yamane said. For me, I  
14 don't -- I don't want to keep blinders on. I think  
15 I'm want to stay my lane, but if I see cars coming,  
16 I'm going to change my lane, you know. And so  
17 that's my personal opinion, and --

18 CHAIR GIOVANNI: I don't know what you  
19 mean about changing lanes. Could you be more  
20 explicit?

21 COMMISSIONER LEE: Well, I think  
22 Commission in the past has said that: What is our  
23 lane? Should we stay in our lane and not get  
24 involved in other things like policy? And we've  
25 been clearly told by multiple people that that's

1 within our purview. I don't think when I serve  
2 here, for me personally, that now I can't opine on  
3 other things, especially when it's already been  
4 clearly stated to us that it's in our purview to do  
5 so, to express our view.

6 And I think the legislators would be happy  
7 to hear what we think, since we do this, you know,  
8 on a regular basis, what we think are some of the  
9 impediments or some of the good things about the  
10 Land Use Commission and its -- and its rules. So  
11 definitely the legislators can do whatever they  
12 want, but I think they would be interested to hear  
13 what the majority of this board thinks or advises.

14 So I agree with Commissioner U'u that, you  
15 know, we should -- we should express it, and if the  
16 legislators throw it away, that's fine. We've  
17 expressed our view, if we do have a united view on  
18 anything.

19 CHAIR GIOVANNI: Commissioner Carr Smith.

20 COMMISSIONER CARR SMITH: I agree. It's  
21 an opportunity, in my opinion, and I personally feel  
22 that it is our responsibility to weigh in on these  
23 things. I came here to hopefully make a difference  
24 with some of the changing landscape, and I think  
25 it's totally our responsibility to weigh in. And

1 since the director is asked to weigh in on these  
2 things, I think even more so that we need to do  
3 this, so I support the idea.

4 CHAIR GIOVANNI: So anybody else?  
5 Commissioner U'u, you got your light on. Did you  
6 have anything further?

7 COMMISSIONER KAHELE: You know, I just --  
8 I just want something clarified here. So whatever  
9 motion that was made, we're not going to go up there  
10 until Waterland schedules a hearing. We're not  
11 going to go up there prior to that and say: Hey,  
12 you know what? This is what we want you to change  
13 in the current bill, right? I mean, is that what  
14 we're doing?

15 CHAIR GIOVANNI: That's my understanding.  
16 This testimony --

17 COMMISSIONER KAHELE: Okay. So if there's  
18 no hearing, there's no issue?

19 CHAIR GIOVANNI: Well, I think that's the  
20 way it works.

21 COMMISSIONER KAHELE: Okay. All right.  
22 Thank you.

23 CHAIR GIOVANNI: So I come to this  
24 position, you know, serving on this board very much  
25 in the same vein as Commissioner Yamane. I want to

1 make meaningful decisions about land use consistent  
2 with the statute and laws of Hawaii. I'm not  
3 interested in making laws. I'm interested in  
4 implementing them fairly and legally.

5 I'm very concerned that going down this  
6 road, just like we've got, I'm -- I'm not even -- I  
7 have no confidence that two days is going to enable  
8 us to cover 14 bills sitting here in this room. And  
9 I have no interest personally in becoming a party to  
10 a -- what looks to me to be a lobbying exercise.

11 So I -- I will agendize these bills,  
12 because it has been requested, and -- and that's why  
13 you -- you see all 14 of these bills of interest and  
14 relevance agendized. But I don't think it's the  
15 best and highest use of -- of the Land Use  
16 Commission to do what we're doing presently.

17 So I -- I could consider and would -- and  
18 would support a motion that's consistent with the  
19 recommendations of staff or a recommendation to go  
20 an up or down vote on a bill as written. But I  
21 don't think it's within our -- I cannot support time  
22 and energy in our province to rewrite legislation as  
23 -- as a lobbyist might do. So that's where I'm  
24 coming from.

25 So I haven't decided if I will abstain or

1 if I will vote in opposition. But I don't want to  
2 get into this -- this kind of business. So anything  
3 further, anybody?

4 Mr. Orodenger, please take a roll call  
5 vote on the -- on the motion.

6 MR. ORODENKER: The motion is as stated by  
7 the chair, and if I can paraphrase it, testify that  
8 this -- on Senate Bill 28 that this Commission would  
9 support a situation where five votes could approve a  
10 DBA, provided it doesn't include IAL lands for five  
11 years. But we're not in support -- the Commission  
12 is not in support of the bill as written.

13 Commissioner Lee?

14 COMMISSIONER LEE: Yeah. I think that if  
15 we don't do anything, testimony will be given  
16 anyway, and questions will be asked. So I'm going  
17 to say aye on this, that they should hear it from  
18 us.

19 MR. ORODENKER: Commissioner Kahele.

20 COMMISSIONER KAHELE: You know -- you  
21 know, Chair, it's -- you somewhat to a point, right,  
22 about, you know, we shouldn't be getting involved  
23 in. But, you know, this is pertaining to the land  
24 use, and -- and I seconded the motion. And you  
25 know, hopefully we review the rest of the list of

1 bills --

2 CHAIR GIOVANNI: Yeah, we're going to --  
3 we will.

4 COMMISSIONER KAHELE: -- that's going to  
5 be heard. And if -- you know, hopefully we can  
6 leave it up to the director and to the staff in  
7 deciding which way we should go on any other bills.  
8 But since I seconded the motion, aye.

9 MR. ORODENKER: Commissioner Carr Smith.

10 COMMISSIONER CARR SMITH: Aye.

11 MR. ORODENKER: Commissioner Hiyashida.

12 MR. HIYASHIDA: I'm going to abstain.

13 MR. ORODENKER: Abstain. Commissioner  
14 Kamakea-'Ohelo is excused. Commissioner U'u.

15 COMMISSIONER U'U: Aye.

16 MR. ORODENKER: Commissioner Miyasato.

17 COMMISSIONER MIYASATO: Abstain.

18 MR. ORODENKER: Commissioner Yamane.

19 COMMISSIONER YAMANE: Abstain.

20 MR. ORODENKER: Chair Giovanni.

21 CHAIR GIOVANNI: Abstain.

22 MR. ORODENKER: Mr. Chair, we have a 4-4  
23 vote.

24 CHAIR GIOVANNI: We have four affirmative  
25 --

1 MR. ORODENKER: Four abstain.

2 CHAIR GIOVANNI: Four abstain. What does  
3 that mean, 4-0?

4 MR. DERRICKSON: By operation of law, it  
5 fails.

6 CHAIR GIOVANNI: Say again.

7 MR. ORODENKER: You need a majority.

8 MR. DERRICKSON: Scott Derrickson, Chief  
9 Planner. By operation of law, you don't receive  
10 five -- at least five affirmative votes, the -- the  
11 motion fails.

12 CHAIR GIOVANNI: Is that correct? Okay.  
13 Motion failed.

14 COMMISSIONER CARR SMITH: So what are the  
15 director's comments going to be on this bill?

16 CHAIR GIOVANNI: It's still alive. So --

17 MR. ORODENKER: If the bill is heard, we  
18 will submit testimony that the Commission has not  
19 taken a position on this matter. But we are always  
20 present for technical -- if they have technical  
21 questions with regard to the impacts of a bill.

22 MR. HIYASHIDA: Commissioner Hiyashida. I  
23 mean, you've heard -- you've heard testimony from  
24 our members. And I think -- I think like how Myles  
25 said, our responsibility is to tell the impacts to

1 the Commission of what this legislation may do. And  
2 I think you should be able to say what those impacts  
3 are. And you can see from the Commission that there  
4 is movement to lessen the degree, but not to the  
5 extent that they want to do.

6 And I think that's reasonable to respond,  
7 right. It's not -- we're not telling them what to  
8 do. We're just telling them what our opinion is.  
9 And I think you've heard it from our discussions.

10 CHAIR GIOVANNI: Yeah. I -- I agree with  
11 what I think you intend to say there. You know, we  
12 had a recommendation from Mr. Orodenker and staff  
13 that there are issues with this bill as written, and  
14 I'm comfortable giving him the latitude to express  
15 those if -- you know, during legislative hearing on  
16 -- from his perspective. I don't think that's in  
17 opposition to any position this -- this board has  
18 taken, this Commission has taken.

19 But before I close this agenda item, I  
20 would -- I would still, if -- if the commissioner  
21 wants to make a different or a new motion, I would  
22 entertain that. Commissioner Lee.

23 COMMISSIONER LEE: Chair, I agree with  
24 everything that's been said. I'm okay. And I don't  
25 know if this -- I would -- maybe I'll make a motion



1 that we oppose the three, but we support -- we  
2 oppose the three as written, but we support efforts  
3 to make it less difficult to approve. I don't know  
4 if that's how -- I don't know if anyone else would  
5 support that.

6 But that might be something that maybe  
7 just the executive officer can just testify as being  
8 factual that, you know, we -- I don't think there  
9 was that much support.

10 MR. ORODENKER: Whenever we submit  
11 testimony, we always say we appreciate -- or we  
12 recognize the intent of this bill as streamlining  
13 the process. However, we take no position, but  
14 we're here for comments. That was -- that would be  
15 the way I would write the testimony.

16 CHAIR GIOVANNI: I thought we opposed the  
17 three.

18 MR. ORODENKER: Yeah, yeah.

19 COMMISSIONER KAHELE: No, I think that's  
20 fair.

21 MR. ORODENKER: No. I mean -- I mean, it  
22 wouldn't be quite that short. But you know, the --  
23 the idea is we -- we have never testified without  
24 saying we recognize the efforts of the legislature  
25 to streamline the process, or whatever the proposal

1 is there.

2 COMMISSIONER LEE: Let me correct myself.  
3 I think Commissioner U'u did support the three, so I  
4 don't think you can say we all oppose the three.  
5 But maybe if you -- if you did say that there was  
6 some robust discussion about it and, you know, we --  
7 we hear the concerns and that there's -- there's  
8 thoughts about streamlining that some might support.  
9 Yeah, I'm sure you -- you'll be able to word it  
10 correctly.

11 CHAIR GIOVANNI: So that -- so let me  
12 state this for commissioners' benefit and see if  
13 you're comfortable with this guidance to executive  
14 director.

15 I would like to give the executive  
16 director the authority, freedom, whatever, to  
17 testify on this bill representing the LUC based on  
18 his understanding of the discussions that occurred  
19 here today and the concerns that were raised about  
20 this bill, recognizing that the intent is for  
21 improved efficiency and effectiveness of the -- of  
22 the Land Use decision making process. But as  
23 written, we have issues with the bill, something to  
24 that nature.

25 Are you consistent with giving that

1 guidance to the executive director, as I just stated  
2 it, and leaving it at that? Commissioner Kahele.

3 COMMISSIONER KAHELE: You know -- you  
4 know, Chair, I'm assuming, and -- and the short time  
5 that I've been here as a commissioner, the director  
6 basically went up there and did what he had to do at  
7 the ledge, whether it was supporting bills, not  
8 taking a position on any other bills, opposing  
9 bills.

10 So I think with -- with his now response  
11 to this bill that he stated earlier, you know -- and  
12 -- and we do a lot of work at the state capitol. I  
13 spend 70 percent of my time up here with -- with  
14 some of you, maybe with Brian. And, you know, I'm  
15 not sure how many of you up there, but I spent a lot  
16 of time up there. We got to be careful in what we  
17 say up there, because there may be feelings that may  
18 be hurt. And -- and that's basically, you know,  
19 people just being human.

20 We go up there and we make a statement  
21 that people may not -- well, these powerful  
22 legislators up there may not want to hear, you know,  
23 we might kind of like add more wood to the fire. So  
24 with -- with Dan's statement and -- and what he's  
25 stated earlier, you know, I -- I think we can live

1 with that. I think we can live with that statement  
2 and instead of complicating things more.

3 And you know, my opinion with Senate Bill  
4 28, with the -- with the -- the current referral, I  
5 don't think this bill's going to go anywhere. But  
6 anyway, you know, that's -- that's me just believing  
7 what I think -- I think Dan should be doing.

8 CHAIR GIOVANNI: Anybody else?

9 COMMISSIONER U'U: Yeah. Quick one.

10 CHAIR GIOVANNI: Commissioner U'u.

11 COMMISSIONER U'U: And I'm okay. I don't  
12 want to over-analyze or micromanage people. That's  
13 not in my wheelhouse. And -- and I threw out that I  
14 will be supportive of three bills, mainly three  
15 people voting. And I wanted to see what the  
16 reaction was at times, right. I mean, if you would  
17 throw out the higher, you got to throw in the higher  
18 and the low for see what you come up with. But  
19 that's how we vet stuff, I feel. Like, you got to  
20 throw it out there. So this was me throwing it out  
21 there, yeah.

22 CHAIR GIOVANNI: Okay. Thank you.

23 COMMISSIONER KAHELE: And you know, Mr.  
24 U'u, you know me and you come from the same yoke,  
25 construction workers. We worry about the people out

1 there. We worry about our community. We worry  
2 about the working class out there struggling. We  
3 worry about the Hawaiians out there, no matter where  
4 it is, Oahu, Maui, Kauai.

5 And -- and that's the reason why you and I  
6 and most of us can relate, is because we tired of  
7 seeing our families, our friends, our co-workers  
8 moving up to the mainland because they cannot live  
9 here. So anyway, I just wanted to share that,  
10 Brother. Everything's cool.

11 CHAIR GIOVANNI: Okay. If there's no  
12 further specific motion on this, I will bring this  
13 agenda item to a close. Okay. Oh, yeah, second  
14 public testimony. Is there anybody online still  
15 wishing to testify on this motion?

16 MS. KWAN: Seeing none on the Q&A, Chair.

17 CHAIR GIOVANNI: Okay. We will close this  
18 agenda item and move to the next one.

19 Okay. Senate Bill 36. Any public  
20 testimony written, received on this one that we  
21 haven't already heard about?

22 MS. KWAN: I have Chuck Flaherty on the  
23 Zoom who would like to testify on this agenda item.  
24 I will promote him now.

25 CHAIR GIOVANNI: Thank you. Yeah, this is

1 public testimony.

2 MS. KWAN: Can I get a mic check and a  
3 video? Can you hear us?

4 MR. FLAHERTY: Yes, I can. I'm sorry. I  
5 just got signed on here.

6 CHAIR GIOVANNI: Sir, would you please  
7 state your name and address, and then I'll swear you  
8 in.

9 MR. FLAHERTY: Chuck Flaherty, 81-950  
10 Makahiki Lane, Captain Cook 96704.

11 CHAIR GIOVANNI: Thank you, Mr. Flaherty.  
12 Do you swear your testimony you're about to give  
13 will be the truth?

14 MR. FLAHERTY: I do. Thank you very much,  
15 Mr. Chair.

16 CHAIR GIOVANNI: So we're specific to  
17 Senate Bill 36 and our position on that senate bill.  
18 You have two minutes. Please go ahead.

19 MR. FLAHERTY: Yes, sir. I'm testifying  
20 on behalf of the Hawaii Island Group of the Sierra  
21 Club of Hawaii on this particular agenda item. I --  
22 we apologize for submitting late testimony to the  
23 Land Use Commission. You will have received it  
24 during this meeting.

25 This proposed legislation is a red

1 herring. Affordable housing developments can  
2 already receive expedited approval under HRS 201H.  
3 Not all land in the urban expansion area is  
4 appropriate for urban development. A perfect  
5 example is the recent county rezoning applicant  
6 seeking to extend the time for a development  
7 originally granted LUC and county approvals in the  
8 1980s. It may be the property that was referred to  
9 earlier, which had three changes of ownership.

10           Because of the profound changes that  
11 occurred over the past 40 years, the original  
12 conditions for redistricting by the LUC were no  
13 longer appropriate. The two FEMA floodways that run  
14 through the property had several flooding events  
15 over the past two decades, which was one of the  
16 primary reasons that the extension was denied. In  
17 addition, the development had been allowed to  
18 proceed with the first phase without fulfilling the  
19 affordable housing requirement. As a result, the  
20 county council denied the rezoning extension.

21           The Hawaii Island Group urges the LUC not  
22 to relinquish its authority to approve applications  
23 proposing to reclassify lands designated as urban  
24 growth in county general plans and other community  
25 development plans. In particular -- and I'll

1 provide testimony to this more extensively later  
2 with the other legislation -- but in particular, the  
3 county general plan currently under review, there's  
4 a lot of controversy and is not necessarily  
5 reflecting the public's desires. So thank you very  
6 much.

7 CHAIR GIOVANNI: Thank you, Mr. Flaherty.  
8 Commissioners, any questions for this witness?  
9 Thank you for your time and effort to come forward.  
10 Appreciate it.

11 Mr. Orodener, would you please give us a  
12 --

13 MS. KWAN: We have another testifier.

14 CHAIR GIOVANNI: Oh, I'm sorry.

15 MS. KWAN: Yes. Sorry, one more. Wayne  
16 Tanaka. I'll promote him now.

17 CHAIR GIOVANNI: Thank you. Mr. Tanaka,  
18 you're still under oath. You've got two minutes to  
19 testify on SB36. Please proceed.

20 MR. TANAKA: Thank you, Chair. Sorry, I  
21 didn't -- I didn't intend to testify again. But I  
22 just wanted to maybe share a reality check about our  
23 housing challenges. Because, you know, the reality  
24 is that just building, it's not going to necessarily  
25 keep people here and could even drive people away,



1 you know, not when we have a global demand for land  
2 in Hawaii, when our largest landowners are, you  
3 know, legally obligated to maximize their  
4 shareholders' revenues, when land and material costs  
5 just keep going up and up and up, and yet more  
6 outside buyers are coming in and using up, you know,  
7 what little water and sewer infrastructure we have.

8           And so really the reality is -- which we  
9 have ample evidence of, is that if we don't have  
10 questions, if we don't have institutions like the  
11 Land Use Commission to set safeguards, then just  
12 streamlining construction to build housing could  
13 make the situation for us local folks worse, right.

14           And there's questions that you can ask,  
15 right? Who benefits from development proposals?  
16 Will it be local residents? Will it be people in  
17 need of affordable housing? What happens, you know,  
18 as I mentioned, if our water and sewer  
19 infrastructure gets used up by expedited high-end  
20 developments, like where does that leave, you know  
21 -- by outside investors, like, where does that leave  
22 us in the future, right, our kids?

23           You know, are developers, you know, real  
24 estate investment trusts, are they private equity  
25 firms? Do they know what Native Hawaiian

1 traditional custom practices are? Like, are they  
2 even legally allowed to care about our food security  
3 or -- or our public trust? And if not, then, you  
4 know, who can make them care, right?

5           And if our children do stay here, will  
6 they be dependent on imported processed foods? You  
7 know, will they be able to maintain their  
8 connections to their island, to their ocean icebox,  
9 you know, when streams are dried up, our estuaries,  
10 you know, continually polluted by local land uses?  
11 Will they even have access to fresh water?

12           And so some of these questions, you know,  
13 I know you can't help with, but many of these you  
14 can. You can make sure that development is  
15 responsible and is sustainable and serves the  
16 public's interest and does not drive people away  
17 from these islands. And I know the pressure on you  
18 to abdicate this responsibility is huge. You know,  
19 that's why we're seeing all these bills.

20           And it's a heavy kuleana to say, you know,  
21 to some of the most powerful entities in the  
22 islands. You know, try wait, let's -- let's think  
23 about this, and let's -- let's make sure this helps  
24 everybody. But really that's what you agreed to do,  
25 and that's, again, what we need you to do and what

1 our kids need you to do.

2 So you know, just generally speaking, you  
3 know, if we're going to push --

4 CHAIR GIOVANNI: I need you to conclude,  
5 please.

6 MR. TANAKA: Yeah, concluding. We just  
7 need to be very mindful about what we're actually  
8 promoting in our, you know, desire to -- to move the  
9 needle in terms of our housing challenges. Happy to  
10 answer any questions. Thank you so much for your  
11 time.

12 CHAIR GIOVANNI: Thank you, Mr. Tanaka.  
13 Commissioners, any questions, comments? Thank you.  
14 Thanks for making the time again.

15 Ms. Kwan, anybody else?

16 MS. KWAN: That is all, Chair.

17 CHAIR GIOVANNI: Thank you. Mr.  
18 Orodénker, please summarize this bill and your  
19 concerns or recommendations for testimony.

20 MR. ORODENKER: I'm going to have Mr.  
21 Derrickson start out on this measure.

22 CHAIR GIOVANNI: Mr. Derrickson, please  
23 proceed.

24 MR. DERRICKSON: Okay. Aloha. Scott  
25 Derrickson, State Land Use Commission Chief Planner.

1 Senate Bill 36 relating to the Land Use Commission  
2 would create a new section under chapter 205 to  
3 allow the reclassification of lands that are not  
4 currently in the urban district but are in  
5 designated -- designated for urban growth in a  
6 county general plan or development plan or community  
7 plan, provided that the requisite analysis are  
8 completed before request is submitted to the LUC.

9           It would require metes and bounds  
10 descriptions and a map. And the LUC would have 90  
11 days then to update the boundary on an official LUC  
12 maps and notify the county. And it requires the  
13 Land Use Commission to adopt new rules to effectuate  
14 this new process.

15           Should I go ahead and talk about some of  
16 the issues?

17           CHAIR GIOVANNI: Yeah.

18           MR. DERRICKSON: Okay. The process that's  
19 laid out here appears to mandate that the LUC would  
20 reclassify strictly based on a county's request and  
21 only needing a provision of metes and bounds  
22 description and a map of whatever the county has  
23 provided.

24           The term requisite analysis are completed,  
25 and these would be requisite analysis completed by

1 the county, it's unclear what that means. There's  
2 no definition of what -- what that would entail and  
3 who determines that it if it's occurred, if that  
4 requisite analysis has been actually conducted.  
5 Since it says that it's to happen before the request  
6 is submitted to the LUC, it would follow that the  
7 county would be the body to make that call. But  
8 it's not clear.

9           There are no requirements to address  
10 public trust issues. State issues, such as concerns  
11 with -- the DOT might have, the Department of  
12 Transportation, the Department of Education, DLNR,  
13 Department of Land and Natural Resources, it does  
14 not anywhere say that they are to address  
15 infrastructure adequacy.

16           Presumably, some of these things might be  
17 and probably are discussed during the years long  
18 process of county general plan amendments or  
19 development plan and community plan updates. But my  
20 experience in participating in those processes is  
21 that while infrastructure is discussed, sometimes  
22 Native Hawaiian rights are discussed, water is  
23 discussed, the details of how to address those  
24 issues is not laid out in the general plan,  
25 development plan, community plan updates. It's left

1 for another time at another stage of the process.

2 This would also require significant  
3 increase in Office of Planning and Sustainable  
4 Development representation by the state during each  
5 of the county's general plan and community plan and  
6 development plan processes in order to make sure  
7 that state issues, public trust issues are discussed  
8 and addressed.

9 MR. ORODENKER: Thank you, Scott. I -- I  
10 would add some concerns there. I -- it's my belief,  
11 as I stated previously when these -- bills like this  
12 were discussed at our last hearing, considering that  
13 there are serious due process issues with -- with  
14 this type of a proposal.

15 I also believe that there's the very real  
16 possibility that small farmers will not be able to  
17 continue their activity. I mean, it -- it must be  
18 made clear that once land is urbanized, then a lot  
19 of the farming activities that are currently  
20 performed on small farmlands, like raising pigs or  
21 things like that, will become a violation of the  
22 zoning laws.

23 I also believe that if the -- going back  
24 to the Ka Pa'akai analysis that every decision made  
25 by any agency is now required to adhere to Ka

1 Pa'akai analysis to be done because of the word  
2 shall. I believe that the Land Use Commission  
3 cannot do a Ka Pa'akai analysis if it was presented  
4 with this matter, because you cannot delegate the Ka  
5 Pa'akai analysis to another organization.

6 All that being said, it is my belief that  
7 SB36 and a couple of the other bills that we're  
8 going to talk about are essentially elimination of  
9 the Land Use Commission, except for special permits.

10 CHAIR GIOVANNI: Illumination?

11 MR. ORODENKER: Elimination.

12 CHAIR GIOVANNI: Oh, elimination.

13 MR. ORODENKER: Elimination. I -- I think  
14 that it -- from staff standpoint, it would be  
15 disingenuous for us to prepare -- appear before the  
16 legislature and advocate for our own demise. I -- I  
17 have a real problem with that.

18 My ultimate suggestion on the -- on this  
19 bill and the other bills that do something similar  
20 is that we just take no position.

21 COMMISSIONER CARR SMITH: Chair, can I ask  
22 a clarifying question?

23 CHAIR GIOVANNI: Yeah, that's where we're  
24 at, so please do.

25 COMMISSIONER CARR SMITH: Yeah. I'm a

1 little confused, because you were talking about  
2 farms and the demise of farms and pig ranches and  
3 such. But this says for areas that are already in  
4 the urban areas of the county, the specific county.

5 MR. ORODENKER: That's not quite accurate.  
6 The -- the bill proposes that the counties be given  
7 authority to redistrict lands inside the urban  
8 growth boundaries that may currently be ag to urban.  
9 So that -- that's the concern.

10 COMMISSIONER CARR SMITH: So if the county  
11 determines that this area is part of the urban  
12 growth, then you don't think they should have the  
13 right to -- to do that?

14 MR. ORODENKER: No, I don't. I think that  
15 the -- the due process, constitutional due process,  
16 requires that each and every landowner within that  
17 county be given a hearing.

18 COMMISSIONER CARR SMITH: Do you not agree  
19 that the county provides that hearing?

20 MR. ORODENKER: No, I do not.

21 COMMISSIONER CARR SMITH: Well, I know for  
22 a fact that the counties --

23 MR. ORODENKER: Not after the general plan  
24 process, no.

25 COMMISSIONER CARR SMITH: Well, I know



1 that the counties do the Ka Pa'akai analysis.

2 CHAIR GIOVANNI: I think -- I think the  
3 point is they do the Ka Pa'akai analysis for  
4 specific request or petition, but not as part of the  
5 general plan. Whereas this bill, if I understand it  
6 correctly, says you would redistrict at the county  
7 level based on the general plan, which is not the --  
8 which does not include some of the -- those  
9 considerations.

10 COMMISSIONER CARR SMITH: Thank you.

11 CHAIR GIOVANNI: Is that correct?

12 MR. ORODENKER: That's correct.

13 COMMISSIONER U'U: Chair.

14 CHAIR GIOVANNI: Commissioner U'u.

15 COMMISSIONER U'U: Yeah, just my manao. I  
16 -- I've been to -- I've been through the community  
17 plan process. Within that process of the community  
18 plan, it -- it goes from the general plan -- well, I  
19 think community plan, it goes back to the planning  
20 commission, and it goes back to the county council.  
21 And trust me when I tell you this, you have way  
22 more, a lot more testimony at the community plans  
23 than we're having currently. It's not close.

24 So what I'm saying is a vetting process --  
25 and remind you now that within the community plan,

1 most of the people within the specific community  
2 come down. So it's more hyper-focused and  
3 hypersensitive within the community. So I disagree.  
4 A lot was being said here. It's been vetted through  
5 a process that's -- at times, there's 100 people,  
6 times there's 20 people.

7 But there's more than two, I can assure  
8 you of that. And that two, if you're going to ask  
9 them what the zip code is, it's within the  
10 community. So it's just my manao. I've been a part  
11 of that process, and I think we should have that  
12 right, the counties, not the state oversight.

13 I -- I think there's a lot of duplicated  
14 processes within the community. I think the reason  
15 why it's here -- and definitely I could be wrong.  
16 But Lahaina got burned, and some of the community  
17 plans within that area was urbanized, but it's  
18 different from the state.

19 And when we -- when we have magnitudes  
20 that affect residents to that degree, we must take  
21 stances that hopefully can create the housing before  
22 we get lost in the shuffle. It just is my manao.  
23 And I think part of that power goes back to the  
24 county. I could be naive, but it seems like it is  
25 asking for it.

1           In fact, there's a lot of duplicating  
2 bills like this. And again, I could be wrong -- but  
3 again, some of those community meetings, a lot more  
4 testimony than we have here today, for sure. Thank  
5 you.

6           CHAIR GIOVANNI: Thank you, Commissioner  
7 U'u. Can I ask you, you know, to -- to expand about  
8 -- since you said you've participated directly in  
9 the -- in the county level processes? The issue has  
10 been raised about the -- the small landowner that is  
11 on agricultural land and whether or not he gets "due  
12 process" when the county is doing its general  
13 planning to redistrict or put his land that's in  
14 agriculture into urban.

15           What -- what say does he have in that  
16 process? I'm not a lawyer.

17           COMMISSIONER U'U: I think that's a very  
18 good question. And -- and again, for some reason --  
19 I guess, what I would say that the first time I  
20 participated in the community community plan change  
21 or the processes when I was on the planning  
22 commission, I say 20 plus years ago, yeah. So at  
23 that time, that was prior to social media, prior to  
24 the news coming on your phone, I mean.

25           So I think at that time, I -- I think was

1 the opposite. I think we -- we -- it was lands was  
2 zoned different, but wasn't by way of ag, but it was  
3 by ways where people maybe wasn't notified. But I  
4 think the last one we had where we were Lahaina, it  
5 was a lot of people that showed up.

6 I say, I think that the -- the process now  
7 with the social media really gains that traction.  
8 And I'll be hard pressed to -- and I could be wrong.  
9 It could definitely happen. I'm not saying it's not  
10 what -- it's never going to happen. It could  
11 happen. But the participation is pretty much --  
12 impressed. I'm impressed with the participation.

13 So I'm not saying it can't happen. I'm  
14 just saying the participation is great. And -- and  
15 for that reason, there's a possibility that, may or  
16 may not, but err on the side of that person who --  
17 just to let you know, you guys know, my family was  
18 in pig farming for 100 years. So you know, when you  
19 guys talk about pig farming, I understand pig  
20 farming, and I'm not saying it as a speech.

21 I'm just saying, my house, Paia, 100  
22 years, we had a big farm. That's what I saying.  
23 The slop came from Paia schools. When you have  
24 people talk about it, it's pretty cool. But we did  
25 it for a living, some of my family, so that's my

1 manao.

2 CHAIR GIOVANNI: Okay. Commissioners.  
3 Commissioner Lee.

4 COMMISSIONER LEE: Thank you, Chair.  
5 Yeah, I think this bill is really flawed. I'm good  
6 with the executive officer just making comments on  
7 it when asked. But I agree with Commissioner U'u  
8 that there's five of us here who've been county  
9 planning commissioners, and that process is very  
10 extensive. It's much more extensive than the 45  
11 days or whatever that we have to make decisions.  
12 They not only have appointed county planning  
13 commissioners, they also have elected council  
14 members. And yeah, it's in the hundreds, you know,  
15 and -- and the county councils have two to three  
16 hearings minimum on stuff.

17 So I think this bill is flawed. I'm --  
18 I'm okay with Dan just giving expert commentary, but  
19 I -- I don't know that I have any position or want  
20 to take any position on this. Thank you.

21 CHAIR GIOVANNI: Thank you. Others.  
22 Commissioner Carr Smith.

23 COMMISSIONER CARR SMITH: Yeah. I just  
24 wanted to note that Hawaii County Planning  
25 Department weighed in on this, and they agree with

1 this bill. I'm guessing most counties do. I think  
2 it's good to also keep in perspective the fact that  
3 Hawaii Island, for example, has something like 2  
4 percent of the land is urban.

5 I mean, if you -- if you think about that,  
6 do we really want to push back so hard on some of  
7 these opportunities for a little bit more land to  
8 become urban so that there can be more housing  
9 built? Each island is really low, and I'm not sure  
10 whether everybody is aware of that or not. But I  
11 think it's a good thing to keep in mind. And yeah.  
12 So I support my county.

13 CHAIR GIOVANNI: Commissioner Lee.

14 COMMISSIONER LEE: Thank you, Chair.  
15 Yeah. I want to acknowledge that it is different on  
16 the Big Island, and the testimony that the executive  
17 officer may provide, I mean, you know, the  
18 legislators can ignore it or not. They're going to  
19 do what they want to do, you know. Sometimes,  
20 they'll use our reasoning as the excuse, or they  
21 could just ignore it altogether. It's up to them.

22 But, you know, I -- I think that if the  
23 executive officer testifies factually, then at least  
24 the legislators can take that information that, yes,  
25 if there are errors and things they haven't

1 considered and they still want to do this, because  
2 they want to listen to what the Big Island wants or  
3 what other people want, then at least it gives them  
4 the basis to fix some of the things that might be  
5 wrong. Thank you.

6 CHAIR GIOVANNI: Fair enough.  
7 Commissioner U'u.

8 COMMISSIONER U'U: Yeah. Again, thank  
9 you. Maui's at 6 percent. You at 2 percent. I  
10 just saying it's -- and I get it, you know -- or I  
11 don't. At times, I do, but that's why we have the  
12 discussions. And -- and I wouldn't say this. I  
13 respect everyone's opinion and viewpoint, and I love  
14 that discussion. Seems like at home talking to my  
15 wife, so brings back -- brings back memories, guys.  
16 So just FYI, mahalo.

17 MR. ORODENKER: You have -- you have  
18 talks. I get orders.

19 CHAIR GIOVANNI: So my takeaway from the  
20 discussion so far, and in the absence of any  
21 specific motion otherwise, is to provide a green  
22 light, so to speak, to the executive director to  
23 provide clarifying testimony to the -- if asked or  
24 if -- if at hearings as -- as appropriate with the  
25 issues that you see.

1           But I don't want to go away from the other  
2 recommendation that was made by the executive  
3 officer, because I think it's appropriate. And that  
4 is that for -- for bills which in effect -- what was  
5 your word -- eliminate the LUC, we should not be up  
6 there testifying one way or another. Correct?

7 Correct?

8           MR. ORODENKER: Correct.

9           CHAIR GIOVANNI: Yeah. Okay. So if  
10 there's nothing further, I'm going to move on to the  
11 next testimony, public testimony on SB 36, if any.  
12 And if not, we'll move on.

13           COMMISSIONER MIYASATO: Chair, what's  
14 that?

15           CHAIR GIOVANNI: Oh, Commissioner  
16 Miyasato, my apologies. I didn't see your hand up.  
17 Please proceed.

18           COMMISSIONER MIYASATO: Thank you, Chair.  
19 Yeah. I need to address the issue that I spoke of  
20 earlier, so I'll be excusing myself.

21           CHAIR GIOVANNI: Okay. We're going to  
22 take a -- it's 1:37. I'm going to recess to 1:45.  
23 And maybe you'll be back, maybe not. Thank you for  
24 the heads up.

25           COMMISSIONER MIYASATO: Okay. Thank you.



1 CHAIR GIOVANNI: Take a recess to 1:45.

2 (Recess taken from 1:37 to 1:45 p.m.)

3 CHAIR GIOVANNI: So Ms. Kwan, do we have  
4 somebody who wants to testify on SB36?

5 MS. KWAN: Yes, I have two on the Zoom. I  
6 will promote Wayne Tanaka now.

7 CHAIR GIOVANNI: Okay. We're back in  
8 session. Wayne Tanaka testified before the  
9 discussion. Now he's going to testify after. So I  
10 will admonish him to keep his testifier -- his  
11 testimony fresh.

12 Mr. Tanaka, welcome back. You will be  
13 given an additional two minutes to testify on  
14 anything new that you want to say, not repetitive.  
15 Please proceed.

16 MR. TANAKA: Thank you so much. And yeah,  
17 last time, I promise. I just wanted to make a quick  
18 comment, though, since we mentioned Lahaina and Maui  
19 kumuhana. Just want to, you know, think about and  
20 reflect on who was using up all the water in West  
21 Maui, right? Who turned Lahaina into a tinderbox?

22 And if you look at the PUC dockets for  
23 (inaudible) irrigation, look at the water commission  
24 reports of who's been using water for what, it's  
25 these multi-million dollar gentlemen farms and ag

1 lands that have been using 1 percent of the water  
2 they're taking for actual agriculture. And  
3 otherwise, millions of gallons of water every single  
4 day were being used to water green lawns, put into  
5 swimming pools, or leave an unlined reservoirs that  
6 just seep that water into the ground, you know,  
7 creating those conditions for the wildfire and the  
8 destruction of Lahaina.

9           And who's responsible for this, right?  
10 Who's been letting -- who never used their authority  
11 to enforce the ag zoning laws in West Maui? And --  
12 and which not only led to the destruction of  
13 Lahaina, but also drives up costs for bona fide  
14 farmers, for land and housing costs across the board  
15 for everyone. It was the county, right, the county  
16 planning department.

17           So, you know, our land laws -- use laws  
18 aren't duplicative. The counties have their own  
19 authorities -- it's their limited authorities of  
20 limited capacity, limited line of sight to the  
21 bigger picture. And they don't produce the kinds of  
22 findings of fact and, you know, the record that you  
23 folks do that can show how their land use decisions  
24 are -- are made, whose testimony got more weight,  
25 and so forth.

1           And on the other hand, the Land Use  
2 Commission can make these -- you do make these  
3 findings of fact. You can place enforceable  
4 conditions on district boundary amendments and those  
5 kinds of changes. And so -- and you can protect the  
6 public right to address climate destabilization, to  
7 protect bona fide farms, to protect the public from,  
8 you know, avoidable impacts.

9           And so just wanted to add that as  
10 something to reflect on.

11           CHAIR GIOVANNI: Thank you very much.

12           MR. TANAKA: Thank you.

13           CHAIR GIOVANNI: That was new.

14 Commissioners, any comment or question? Thank you,  
15 Mr. Tanako.

16           Next testifier.

17           MS. KWAN: Next, I have Tara Rojas. I  
18 will promote her now.

19           CHAIR GIOVANNI: She's not testified  
20 already today, right? She's new?

21           MS. KWAN: Yeah.

22           MS. ROJAS: Aloha. Can you hear me?

23           MS. KWAN: Are you able to turn on your  
24 camera?

25           MS. ROJAS: Yeah. One second.

1 CHAIR GIOVANNI: Ms. Rojas, you're coming  
2 on -- there you are. I see you.

3 MS. ROJAS: Aloha. Tara Rojas.

4 CHAIR GIOVANNI: Thank you. Could you  
5 please state your name and address?

6 MS. ROJAS: Tara Rojas. So I wanted to  
7 say that -- SB36, yes?

8 CHAIR GIOVANNI: Wait, wait, wait, wait.  
9 I need your name and address, then I'll swear you  
10 in. Then you can say what you want.

11 MS. ROJAS: Tara Rojas and Ewa Beach.

12 CHAIR GIOVANNI: And do you swear your  
13 testimony will be the truth?

14 MS. ROJAS: Yes.

15 CHAIR GIOVANNI: Then you have two  
16 minutes. Please proceed.

17 MS. ROJAS: Okay. So Tara Rojas and SB36,  
18 so I just want to say, you know, again that I -- I  
19 strongly oppose SB36, because I just came, you know,  
20 for example, from the HCDA meetings and, you know,  
21 planning commission, county council meetings. And  
22 basically, you know, it's just stripping the Land  
23 Use Commission of your critical oversight role.

24 And it forces, you know, the automatic  
25 reclassification of lands to urban at county's

1 request and prioritizing, as we notice in the whole  
2 state of Hawaii, developers over community voices  
3 and environmental responsibilities and concerns.

4           So, you know, counties have a history of  
5 approving urban growth without fully considering the  
6 infrastructure capacity, we're in a water crisis,  
7 the environmental impact, and community needs. And  
8 so this bill is an open invitation to unchecked --  
9 in addition to what already has been happening  
10 throughout the 132 years of this illegal occupation  
11 -- of unchecked urban sprawl and land speculation.

12           So we need more safeguards, not less. And  
13 so we need to ensure that the land decisions, you  
14 know, serve the people and not just private  
15 interest. And with that, I also want to just really  
16 quickly state that the previous decision that  
17 happened about Haseko having a history of  
18 controversial land uses and, you know, the bait and  
19 switch on the plan, marina changed to lagoon, crack  
20 in the water table.

21           So I just want to say disappointment  
22 because when a developer shows it to the whole team,  
23 does that automatically guarantee a unanimous yes?  
24 Where's that same level of urgency when it comes to  
25 protecting our land and resources?

1 CHAIR GIOVANNI: Ms. Rojas, I need you to  
2 confine your remarks to SB36 at this time, if you  
3 don't mind.

4 MS. ROJAS: Yeah. So just avoid rubber  
5 stamping developers and realize that your -- your  
6 role is really just to protect the aina and the  
7 people, not developers, not profit people. Mahalo.

8 CHAIR GIOVANNI: Mahalo. Commissioners,  
9 questions, comments from Ms. Rojas? Thank you, Ms.  
10 Rojas, for coming forward and making the time today.  
11 Thank you.

12 MS. ROJAS: Mahalo.

13 CHAIR GIOVANNI: Okay. So that brings  
14 SB36 to --

15 MS. KWAN: I have one more testifier.  
16 Chuck Flaherty would like to add additional  
17 comments. I will promote him again.

18 CHAIR GIOVANNI: Thank you.

19 MR. FLAHERTY: Mahalo, Mr. Chair. I just  
20 wanted to respond to some comments that I made  
21 during the discussion. I -- I'm speaking now  
22 personally. I participated in the comprehensive  
23 review process for the general plan back in the  
24 early 2000s for the County of Hawaii, the  
25 development of the Kona Community Development Plan,

1 which is the first community development plan on the  
2 Island of Hawaii -- there have been five subsequent  
3 to that -- as well as participating in the current  
4 county general plan comprehensive review process.

5 I want to be clear that the Land Use  
6 Commission operates under the state constitution and  
7 Hawaii revised statutes. The county general plans  
8 operate under the county charters and county code.  
9 So we're comparing apples and oranges. The urban  
10 expansion areas to which this bill refers are very  
11 broad strokes that were put in place primarily  
12 around Kailua-Kona, quite frankly, that were put  
13 into place as a concept, not with any specific input  
14 as to the -- the -- any of the constitutionally  
15 protected resources or state laws that may be  
16 impacted by that designation.

17 So it really is a very dangerous move to  
18 pass this bill because urban expansion area was a  
19 broad -- broad brush concept done on a county level  
20 without regard to necessarily state laws. Thank you  
21 very much.

22 CHAIR GIOVANNI: Thank you, Mr. Flaherty.  
23 Commissioners, any further questions for Mr.  
24 Flaherty? Thank you, Mr. Flaherty, for coming  
25 forward.

1           So that brings SB36 to a close. We have  
2 empowered our -- our executive officer to provide  
3 testimony along with lines that he recommended,  
4 pointing out the concerns about this bill, also to  
5 take no position on a bill that would virtually  
6 eliminate the LUC. Got that, Mr. Executive  
7 Director?

8           MR. ORODENKER: I got it.

9           CHAIR GIOVANNI: Okay. So we'll now move  
10 on to the eighth agenda item, decision on  
11 commissioner's position regarding SB1079 and HB 502,  
12 which are basically the same, one a senate bill, one  
13 a house bill. Ms. Kwan, any written testimony was  
14 considered earlier, so is there any oral testimony  
15 that people have signed up for on these bills?

16           MS. KWAN: Yes, Mr. Chair. I have Chuck  
17 Flaherty, who would like to testify on this item.

18           CHAIR GIOVANNI: Oh, Mr. Flaherty. Is he  
19 still on?

20           MS. KWAN: Yes.

21           CHAIR GIOVANNI: Very good. Mr. Flaherty,  
22 you have two minutes. Please proceed.

23           MR. FLAHERTY: I won't take that long.  
24 Thank you, Mr. Chair.

25           With regard to this proposed legislation,



1 the state legislature passed legislation last year  
2 that allowed for a minimum of two accessory dwelling  
3 units and properties within the state land use urban  
4 district. Y'all may have been familiar with that.  
5 It was very controversial.

6           Shortly thereafter, though, the County of  
7 Hawaii approved a revision of its code that allows  
8 up to three accessory dwelling units on land, not  
9 just in the state urban district, but also for  
10 properties in the state rural district.

11           If the county were to be allowed to submit  
12 petitions for declaratory rulings to redesignate  
13 agricultural subdivisions into the rural district,  
14 then property owners would be able to build up to  
15 three additional accessory dwelling units.

16           Given the public infrastructure on the  
17 Island of Hawaii is already beyond capacity and the  
18 current county general plan comprehensive review  
19 process has not in any way taken into consideration  
20 the impact of the increased densities that would  
21 result from these accessory dwelling units, these --  
22 this legislation could have disastrous unintended  
23 consequences.

24           And so Hawaii Island Group urges the Land  
25 Use Commission to give this an unfavorable

1 recommendation. Thank you very much.

2 CHAIR GIOVANNI: Thank you, Mr. Flaherty.

3 Any questions, comments for Mr. Flaherty? Hearing

4 none, anybody else, Ms. Kwan, on this bill?

5 MS. KWAN: Seeing none in the Q&A feature,

6 chair.

7 CHAIR GIOVANNI: Thank you very much.

8 Mr. Orodenker, will you and staff please provide a

9 brief summary of this proposed legislation and your

10 concerns and recommendations?

11 MR. ORODENKER: Thank you, Mr. Chair.

12 This is -- what -- in what it attempts to accomplish

13 a fairly simple bill, unintended consequences aside.

14 It gives the counties three years by

15 resolution of its county council to submit a

16 petition to the LUC for the redistricting of land

17 from an agricultural district to a rural district if

18 the land has been developed for single family

19 residences that are currently in the agricultural

20 district and subdivided into lots that are no larger

21 than one acre in size, the land is a part of an

22 existing agricultural subdivision, a single family

23 residence is constructed on each lot, and any

24 requirements for chapter 343 are met, and it won't

25 affect neighboring agriculture.

1           It's supported by the county plan, and the  
2 county council provides notice, and OPSD has made a  
3 recommendation. It gives us the ability to -- gives  
4 the Land Use Commission the ability to process those  
5 petitions as a declaratory order.

6           This is a cleanup bill. This has been  
7 talked about with me at the legislature for some  
8 time, going on maybe seven or eight years. Hawaii  
9 County in particular has a problem with a bunch of  
10 agricultural residential developments that are in  
11 the agricultural district and not in the urban  
12 district. I understand -- or the rural district,  
13 and they have a desire to clean up the problem.

14           I believe that the intent of this bill is  
15 good, but I -- I do have concerns, as was mentioned  
16 by the testifiers, of unintended consequences. My  
17 recommendation is that we submit testimony with  
18 concerns, not that we oppose it or support it, but  
19 that we just express concerns.

20           CHAIR GIOVANNI: The urban sprawl concern?

21           MR. ORODENKER: No. I think our concern  
22 is it mirrors what was -- was just -- just  
23 mentioned, and that is that we don't overburden the  
24 infrastructure by all of a sudden allowing three  
25 homes per one-acre lot.

1 I think that -- you know, that if the  
2 legislature so finds, it could amend the bill to  
3 ensure that there's not an overburdening of  
4 infrastructure. But I mean, from the standpoint of  
5 cleaning up the districts, I don't think it's a bad  
6 idea.

7 CHAIR GIOVANNI: Okay. Commissioners.  
8 Commissioner Carr Smith.

9 COMMISSIONER CARR SMITH: Yeah. Hawaii  
10 County has a process for that. I mean, you cannot  
11 just add three ADUs without having the  
12 infrastructure to support it. So I don't think that  
13 that should be an issue from us, because that's  
14 already part of their process.

15 MR. ORODENKER: I -- I think that the way  
16 I would testify on that would be that -- provided  
17 that the infrastructure is in place for whatever,  
18 for additional homes. But that's the only comment  
19 that I would make on this bill.

20 COMMISSIONER CARR SMITH: Okay. Well, you  
21 had said just a minute ago the you would address  
22 your concerns. I -- I like it more when you say the  
23 things that you like about it.

24 MR. ORODENKER: Oh, okay. Okay. Yeah.

25 COMMISSIONER CARR SMITH: Personally.

1 MR. ORODENKER: Yeah. I mean, I -- I  
2 think there are a lot of things to like about this  
3 bill. It cleans up the -- the districts. I mean,  
4 right now there's a lot of sham districts, you know,  
5 agriculture, but, oh, well this is really single  
6 family residents. And a lot of the problems that  
7 the county is having are related to infrastructure.

8 Because Paradise Park, for instance, in  
9 places like that, there's no fire hydrants because  
10 it's ag, and they don't want to put it fire hydrants  
11 in ag land. There's -- they don't take over the  
12 roads, all the rest of those things. So I -- I  
13 don't think that the counties are going to submit  
14 requests haphazardly and just do it blanket. I  
15 think they're going to make decisions on what they  
16 can handle. But the intent is good.

17 COMMISSIONER CARR SMITH: Good. Thank  
18 you.

19 CHAIR GIOVANNI: Commissioner Lee.

20 COMMISSIONER LEE: Thank you, Chair.  
21 Yeah, I note that the senate bill is from Senator  
22 Inouye who's from the Big Island. And in Honolulu  
23 also, you have to have the infrastructure before you  
24 can build the ADUs. But I think that one of the  
25 problems has always been promoting local farming and

1 local produce.

2 And -- and one of the big problems is  
3 people don't have a place to live if they want to  
4 farm. Farming is very difficult, and this might be  
5 something that helps that effort. So yeah, anything  
6 positive and -- with the cautions, of course, I  
7 think it would be a good idea.

8 CHAIR GIOVANNI: So it sounds like we  
9 concur with the recommendation to express support  
10 for the intent of the bill, provided the  
11 infrastructure type issues are dealt with on a case-  
12 by-case basis. Is that right?

13 COMMISSIONER CARR SMITH: I think so.

14 CHAIR GIOVANNI: Yeah. Okay.

15 COMMISSIONER CARR SMITH: Yeah. I think  
16 this bill originated from Heather Kimball, who was  
17 the chair of the county council, an d--

18 CHAIR GIOVANNI: Okay. Okay. Any -- who  
19 is it?

20 MS. KWAN: Tara Rojas again.

21 CHAIR GIOVANNI: Okay. Let's hear from  
22 Ms. Rojas.

23 MS. KWAN: Ms. Rojas, I'm going to promote  
24 you to panelists so you can give your testimony.

25 MS. ROJAS: Okay. Aloha. Rojas. And so,

1 you know, I'm listening to this, and this is my  
2 first time in the Land Use Commission. Been to the  
3 other meetings and I hear what your discussion  
4 about, you know, farmers, mahiai. You want to make  
5 it easier for them to farm and then to live.

6           However, it's super easy -- we see it  
7 happening always -- you know, when you reclassify  
8 agricultural land into rural land, and it's a well-  
9 documented, you know, gateway to urbanization. And  
10 so this is not a -- like a harmless administrative  
11 change. You know, it sets a -- a precedent,  
12 possibly dangerous precedent, that weakens long  
13 standing land protections.

14           And so agricultural lands, you know, once  
15 they're lost, they're lost. They're nearly  
16 impossible to restore. And you know, once  
17 somebody's on it, are they going to want to, you  
18 know, give it up? So just glancing again at --  
19 like, just looking at all the bills, was looking at  
20 many other bills trying to keep up with too.

21           But basically, like I said, I'm going to  
22 bring it in here because they were there, that the  
23 privatization, just kind of rubber stamping, you  
24 know, always given to developers. Legislation, as  
25 we've seen throughout these 132 years, ultimately

1 benefits private developers and not local  
2 communities, puts our island's food security at  
3 risk, sustainable agriculture, and future self-  
4 sufficiency.

5           So instead of fast tracking rezoning, you  
6 should be strengthening your protection for  
7 agricultural lands to ensure they remain a viable  
8 resource for future generations. And so not a  
9 speculative development opportunity again, because  
10 we know how things work in Hawaii with this whole  
11 legislative process.

12           There's just very few bills that really  
13 protect the environment and have people's best  
14 interests, because people that know this system know  
15 how to find the loopholes around it. And I -- I  
16 really -- I don't know. I don't have -- my first  
17 time again with you all, and just by hearing you say  
18 that you -- you back up the concerns that we're  
19 mentioning is a good sign.

20           But like I said again, when these  
21 developers know the loopholes and like if Haseko can  
22 go to the whole team and get it passed, knowing that  
23 their history is not for the environment nor the  
24 people, rather their profits, that's a huge concern.

25           CHAIR GIOVANNI: Thank you. I need you to



1 conclude.

2 MS. ROJAS: Mahalo.

3 CHAIR GIOVANNI: Mahalo. Commissioners,  
4 any question or comments for Ms. Rojas? Thank you,  
5 Ms. Rojas, for coming forward again. Appreciate it.

6 Very good. Who is it?

7 MS. KWAN: I have Chuck Flaherty who would  
8 like to provide additional testimony.

9 CHAIR GIOVANNI: Mr. Flaherty, nice to  
10 meet you again. Please proceed. Oh, you're not on  
11 yet. Yes, keep Mr. Flaherty on.

12 Mr. Flaherty, please proceed.

13 MR. FLAHERTY: I'm sorry, Mr. Chair. My  
14 computer has a delay when I'm joined as a panelist.  
15 So yes, just to follow up, I -- I hear the comments.  
16 But just to be clear, when we're -- when we're  
17 talking about moving an agricultural subdivision  
18 into rural on the Big Island, we're -- we're talking  
19 about the potential for up to three accessory  
20 dwelling units to be added to each lot.

21 There's no way -- and obviously there's  
22 going to be an impact on infrastructure. I really  
23 don't understand how the impact on infrastructure  
24 can be addressed when there's no way to know what  
25 each individual property owner is going to do, how

1 many they're going to add.

2           So if that were to happen, you would have  
3 to assume the maximum number of ADUs on the -- on  
4 each of the properties in order to assure that the  
5 infrastructure would be sufficient. And given that  
6 we're already facing the challenge with cesspools,  
7 with power brownouts, wastewater issues on the Big  
8 Island, I just don't see how -- how this legislation  
9 is pragmatically -- works out in the real world.

10 Thank you very much.

11           CHAIR GIOVANNI: Thank you very much.  
12 Questions, comments, commissioners? Thank you, Mr.  
13 Flaherty.

14           Anybody else, Ms. Kwan?

15           MS. KWAN: Seeing none in the Q&A feature,  
16 Chair.

17           CHAIR GIOVANNI: Okay. So Executive  
18 Director, are you clear on how to proceed on this  
19 one?

20           MR. ORODENKER: Yes, I am, Mr. Chair.

21           CHAIR GIOVANNI: Okay.

22           MR. ORODENKER: I'm reviewing the next  
23 bill. Sorry.

24           CHAIR GIOVANNI: So we're down to five  
25 commissioners, and we're going to lose Commissioner

1 Hiyashida at 2:30. So if Commissioner Miyasato does  
2 not return by 2:30, we will lose a quorum, and we  
3 will adjourn the meeting. Heads up.

4 So let's try to do at least one more  
5 before Commissioner Hiyashida has to leave at 2:30.  
6 Is that correct, 2:30? That's SB114. Has there  
7 been anybody wishing to do public testimony on 114,  
8 senate bill?

9 MS. KWAN: Nobody used the Q&A feature to  
10 testify on agenda item 9.

11 CHAIR GIOVANNI: Thank you. Mr.  
12 Orodenker, please give us a summary of this bill and  
13 your concerns and recommended testimony.

14 MR. ORODENKER: Thank you, Mr. Chair.  
15 This bill creates a process whereby the landowner of  
16 a 30 acre parcel could construct senior housing  
17 facilities or elderly housing facilities on portions  
18 of their land no more than 15 acres.

19 Personally, I -- I'm very conflicted by  
20 this measure. I'm not sure what it's attempting to  
21 accomplish because it -- it lays out a process  
22 that's pretty similar to a 201H process. So I'm not  
23 sure why it's necessary, but the intent is a good  
24 one. I -- I am concerned that they have -- there  
25 are some real long-term problems if the land is not

1 eventually urbanized. But I think this bill lays  
2 out a -- somewhat of a process to urbanize land.

3 I honestly don't know what I would say on  
4 this measure if it was heard. I think that I would  
5 just be there to answer questions, because I'm not  
6 -- I mean I have -- I'm not sure what it's -- what  
7 the difference is between a 201H process or a -- an  
8 elderly housing DBA and what this is proposing. So  
9 that's my comment.

10 CHAIR GIOVANNI: Okay. So if I understand  
11 you correctly, the intent seems to be favorable, but  
12 it's uncertain what it's really intended to -- to  
13 do.

14 MR. ORODENKER: Yeah.

15 CHAIR GIOVANNI: And so you're not  
16 prepared to offer specific testimony. So you're  
17 saying you would not testify on this bill, but be  
18 available for Q&A?

19 MR. ORODENKER: Yeah. That -- that's the  
20 way I would handle the first hearing of this bill.  
21 And if it moved, we would have to see how it was  
22 amended before I would make a decision.

23 CHAIR GIOVANNI: Commissioners, any  
24 comments or questions on this bill? Commissioner  
25 Carr Smith.

1           COMMISSIONER CARR SMITH: Thank you. So  
2 Dan, is elderly housing facilities or long-term care  
3 a part of the 201H system? It's not, right?

4           MR. ORODENKER: Not necessarily, but if --  
5 if a developer of -- I'm speaking from personal  
6 experience because one of my previous lives I was a  
7 consultant for -- for an association that was doing  
8 elderly housing. If you phrase it properly, you  
9 know, you can get 201H funding for a project like  
10 this and go through the 201H process. If it's  
11 artfully done, you fall within 201H.

12           COMMISSIONER CARR SMITH: But if that was  
13 as easy as that, don't you think they would have not  
14 put this forward?

15           MR. ORODENKER: I'm not sure why this bill  
16 was put forward. I -- like I said when I started  
17 out, I -- I'm conflicted by this. I'm not -- I'm  
18 not sure what they were trying to accomplish. I  
19 think that if the aim was really to develop a 201H  
20 process for this type of housing, they should have  
21 amended 201H.

22           So I mean, that's why I'm saying I support  
23 the intent of this bill vehemently because I used to  
24 do elderly housing, but I'm not really sure from a  
25 procedural standpoint what they're trying to

1 accomplish here.

2 COMMISSIONER CARR SMITH: So I would -- I  
3 would appreciate you stating that you support the  
4 intention.

5 MR. ORODENKER: I can do that.

6 CHAIR GIOVANNI: Commissioner Lee.

7 COMMISSIONER LEE: Yeah. I'm a little  
8 confused too. I didn't realize that with 201H you  
9 can do district boundary amendments.

10 MR. ORODENKER: 201H provides a process  
11 for a truncated district boundary amendment  
12 proceeding. Once the county council has made a  
13 determination on what it is willing to waive, we  
14 have 45 days to do a DBA, which really means --

15 CHAIR GIOVANNI: Do it.

16 MR. ORODENKER: Yeah, what we're just  
17 doing.

18 COMMISSIONER LEE: Okay. Thank you.

19 CHAIR GIOVANNI: Okay. Commissioner U'u,  
20 did you --

21 COMMISSIONER U'U: I'm good what director  
22 said earlier.

23 MR. ORODENKER: Thank you.

24 CHAIR GIOVANNI: Yeah, me too. It's like  
25 you appreciate the intent, not sure why it's

1 necessary, here to answer questions. Okay. Pardon  
2 me?

3 MS. KWAN: There's testimony.

4 CHAIR GIOVANNI: Okay. So let's return to  
5 the second round of public testimony. Is anybody  
6 there?

7 MS. KWAN: Yes. I'm going to call for  
8 Tara Rojas.

9 CHAIR GIOVANNI: Okay. We'll leave her on  
10 too.

11 MS. ROJAS: Aloha. So, you know, just  
12 again, looking at it. Majority of them, they're --  
13 they're so - it seems so, like, repetitive and just  
14 opposing a lot of them. There's just a few I  
15 support, like couple support with reservations. And  
16 like from 14 on, it's, like, support because it's  
17 for mahiai.

18 Again, as you all were discussing right  
19 now, love our kupuna, and yes, you know, we need  
20 elderly housing. However, permitting development on  
21 agricultural land, again, sets a concerning, you  
22 know, precedent and so can lead to further  
23 encroachment and on lands, you know, vital for  
24 agriculture and so potentially, you know,  
25 compromising again food security, that's ag land,

1 right, and sustainable farming practices.

2 So it's essential, you know, to explore  
3 alternative solutions that do not involve converting  
4 agricultural spaces. So just -- just for a heads  
5 up, the next one, like, you know, the SB1157, like a  
6 --

7 CHAIR GIOVANNI: Don't go there. Just  
8 stay --

9 MS. ROJAS: Yeah, okay. Because it just  
10 seems so repetitive and it's like, oh, my gosh --

11 CHAIR GIOVANNI: I'm sorry. But that's  
12 the process we have.

13 MS. ROJAS: I know.

14 CHAIR GIOVANNI: One by one, we're taking  
15 them. We're not doing --

16 MS. ROJAS: Yeah. So that's my comment  
17 that these bills try in so many different ways to do  
18 the same thing. And it just takes a lot of time  
19 when -- yeah. You just have to have the right  
20 mindset, decolonized mindset, to be able to make the  
21 right decisions for Hawaii --

22 CHAIR GIOVANNI: Fair enough.

23 MS. ROJAS: -- not in favor of developers,  
24 yeah, of for-profit. It's for --

25 CHAIR GIOVANNI: Okay. Thank you. Thank



1 you.

2 MS. ROJAS: Mahalo.

3 CHAIR GIOVANNI: We understand where  
4 you're coming from.

5 MS. ROJAS: Mahalo.

6 CHAIR GIOVANNI: Commissioners, anything  
7 for Ms. Rojas? No. Okay. Is Mr. Flaherty signed  
8 up?

9 MS. KWAN: For the next agenda.

10 CHAIR GIOVANNI: Okay. So you're good to  
11 go on this one?

12 MR. ORODENKER: Yes, I am, Mr. Chair.

13 CHAIR GIOVANNI: Okay. So we're going to  
14 -- we got 10/12 minutes left. We're making headway.  
15 Senate Bill 1117.

16 MR. ORODENKER: 1157.

17 CHAIR GIOVANNI: Oh, my eyes. Put my  
18 glasses on. 1157. My apologies. So Mr. Flaherty  
19 is available to testify on this bill?

20 MS. KWAN: Yes. Mr. Flaherty has signed  
21 up for oral testimony. Go ahead and turn your mic  
22 and camera on.

23 CHAIR GIOVANNI: Mr. Flaherty, please  
24 proceed.

25 MR. FLAHERTY: Hello, Mr. Chair. Yes. On

1 bill -- and actually, it sounded -- it's related to  
2 the next agenda item, too, but I'll testify on this  
3 one. The County of Hawaii is currently conducting a  
4 comprehensive review of its general plan. Since the  
5 county -- Hawaii Planning Director issued the  
6 current draft general plan, referred to as General  
7 Plan 2045, there have been common themes in public  
8 testimony.

9 One theme is related to the fact that the  
10 planning department engaged a private contractor to  
11 place the general plan to --

12 CHAIR GIOVANNI: Mr. Flaherty -- Mr.  
13 Flaherty, could you clarify?

14 MR. FLAHERTY: Yes.

15 CHAIR GIOVANNI: Did you say Kauai or  
16 Island of Hawaii?

17 MR. FLAHERTY: The Island of Hawaii. I'm  
18 sorry, yes.

19 CHAIR GIOVANNI: Thank you. Okay.

20 MR. FLAHERTY: I'm speaking -- I'm  
21 basically speaking about issues with -- these state  
22 issues from the -- from the perspective of the  
23 County of Hawaii. I apologize, yes.

24 CHAIR GIOVANNI: Thank you. Please  
25 proceed.

1 MR. FLAHERTY: So one theme is related to  
2 the fact that the planning department engaged a  
3 private contractor to place the General Plan 2045 on  
4 an online platform that required a software -- the  
5 public to learn a software to provide comments on  
6 the written text and to learn another software  
7 program in order to review and comment on the land  
8 use maps.

9 This immediately disenfranchised a large  
10 portion of the county's legal residents. The County  
11 Windward Planning Commission is conducting a special  
12 meeting to review the draft general plan 2045 at  
13 this very moment. If the commissioners were to  
14 watch public testimony being submitted at this  
15 meeting, as well as the prior meetings of the  
16 Leeward and Windward Planning Commissions of the  
17 Island of Hawaii on YouTube, you would see that the  
18 draft general plan is not only opposed, but that the  
19 public has only been recently learning of the  
20 comprehensive review process because of increased  
21 attention by social media influencers.

22 Therefore, the Hawaii Island Group urges  
23 the Land Use Commission to not relinquish --  
24 relinquish its authority to county general plans  
25 and/or community development plans and to give this

1 an unfavorable recommendation.

2 And I apologize, I have to leave. But  
3 this testimony also relates to the -- the next  
4 agenda item as well. Thank you very much.

5 CHAIR GIOVANNI: We're going to adjourn  
6 after this, Mr. Flaherty, after consideration of  
7 this agenda item. So if you want to participate in  
8 the next agenda item, we'll see you at 10:00 in the  
9 morning.

10 MR. FLAHERTY: Thank you very much.

11 CHAIR GIOVANNI: Okay. Mr. Orodener --  
12 oh, you got one more. I'm sorry.

13 MS. KWAN: Yeah. Tara Rojas said she  
14 would like to testify on this item, as well.

15 CHAIR GIOVANNI: Okay. Very well. Ms.  
16 Rojas, please proceed when you're ready.

17 MS. ROJAS: Oh, didn't realize I was still  
18 on. Okay. Aloha. So this bill, you know, really  
19 reduces the state level oversight, like the previous  
20 testifier just said, you know, to permit counties to  
21 reclassify without, you know, the Land Use  
22 Commission involvement and so potentially leading to  
23 inconsistent land use decisions and, again,  
24 increased urbanization of rural areas.

25 And so maintaining your LUC oversight

1 ensures a balanced approach to development and again  
2 just preserving the integrity of rural communities.  
3 We got to keep Hawaii Hawaii. There's no reason to  
4 see an undeveloped plot of land and like: Oh, my  
5 gosh, I got to develop it. You know, that's what it  
6 is.

7           You got to leave the land as is. You got  
8 to restore ahupua'a mindset and practice. You got  
9 to restore and -- you know, for food systems, not  
10 for development. But how the system is -- is rigged  
11 or worked or made or started, it's all a foreign,  
12 not-of-here mindset. And it's in bylaws. And the  
13 bylaws state that we have to develop, and the bylaws  
14 say that we have to do this.

15           And it's like when is common sense going  
16 to come back to, one, realize don't build on the  
17 coastline, first of all. You see that Maui  
18 apartment building, the base foundation  
19 destabilized, you know, because it was built on  
20 marshland. And you see all the mud cleanup. It's  
21 like when is this illegally occupying state going to  
22 learn to decolonize their mindset?

23           You -- you just ask the kanaka that know  
24 and have kiloed (phonetic) that area, listen to them  
25 when it says no, not to build. But because you got

1 county planning commissions' bylaws and HCDA  
2 agencies built, and they're all just going to build  
3 and build and build till there's like no land left.

4 I saw it in Kalaeloa here in Oahu where  
5 they said: Oh, you know what, there was supposed to  
6 be different zoning levels. Really quick, there's  
7 different zoning levels. One is like --

8 CHAIR GIOVANNI: Again, you need -- we  
9 need for you to conclude.

10 MS. ROJAS: Okay. I'll conclude. That  
11 they had zero zoning level, just like the mauna.  
12 Oh, but because it got disturbed, now there is no  
13 pure nature, just only area. So that's this  
14 mindset. That's what you got to protect, the pure -  
15 - just leave the land as is, you know, rural and/or  
16 for agriculture, for traditional ahupua'a mindset  
17 and agriculture practices.

18 CHAIR GIOVANNI: Thank you.

19 MS. ROJAS: Mahalo.

20 CHAIR GIOVANNI: Commissioners, any  
21 comments or questions for Ms. Rojas? Hearing none,  
22 Dan Orodenker, please give us a summary of this bill  
23 and your recommendations on and concerns.

24 MR. ORODENKER: Thank you, Mr. Chair.  
25 This bill is similar to SB36, which we already

1 discussed as agenda item 7. It authorizes the  
2 counties to undertake district boundary amendments  
3 consistent with the general plan.

4           However, I think this bill is even more  
5 flawed, because it allows the counties to  
6 consolidate proceedings to amend state and land use  
7 boundaries with the county proceedings to amend the  
8 general plans and development plans. Once again, I  
9 would take the same position that I did with SB36  
10 and that is that we should only provide comments.

11           CHAIR GIOVANNI: What comments?

12           MR. ORODENKER: My comments would be that  
13 the -- the bill, I have concerns about the  
14 appropriateness of consolidating proceedings and the  
15 due process involved with this type of proposal.

16           CHAIR GIOVANNI: So just to remind, on  
17 SB36, our position was to take no position  
18 explicitly, but to enable you to address questions  
19 and share concerns.

20           MR. ORODENKER: That is correct.

21           CHAIR GIOVANNI: And you want the same --  
22 you're recommending same for SB1157; is that  
23 correct?

24           MR. ORODENKER: That's correct.

25           CHAIR GIOVANNI: Okay. Commissioners, you

1 good with that?

2 COMMISSIONER U'U: I'd just like to make a  
3 note. I -- I know a lot have been talk is about --  
4 it's about giving the powers to the county and maybe  
5 the state should have the oversight. I just wanted  
6 to point out that the -- the recommendations and the  
7 bills that's being proposed or vetted today is made  
8 by the state representatives who wants to give some  
9 power back to the county.

10 So we hear we don't want to give county  
11 and well -- and I hear people testify and say the  
12 state should have the oversight. But I just wanted  
13 to make mention that again the bills we're being  
14 heard today by state representatives that wants to  
15 give it back to the county, it seems like. And  
16 again, it's something they can bet on their own. We  
17 can share our manao with that also.

18 CHAIR GIOVANNI: Yeah. I think that's a  
19 great observation, Commissioner U'u. But at the  
20 same time, I think that we're getting a small dose  
21 today of what the legislature is going to be  
22 experiencing in terms of public comments and  
23 concerns.

24 And I -- like I said earlier, I think  
25 that's in -- more in their wheelhouse of what they



1 do day to day, as opposed to what we do as  
2 regulators that are here to enforce existing laws  
3 rather than worry too much about what might happen.  
4 That's my position. But thank you for that comment.  
5 That was interesting and observant.

6 Other comments? Commissioner Carr Smith,  
7 are you winding up for a comment?

8 COMMISSIONER CARR SMITH: I guess. Yeah,  
9 I hear what you're saying, but I -- I also feel like  
10 the counties are asking for this over and over on  
11 different levels for a reason. And I don't think we  
12 should just be disregarding them. It's obvious that  
13 -- that they wish that the process was different so  
14 that they could weigh in more. And I think they  
15 know their -- their county, their island better than  
16 we do.

17 So I tend to give more weight to what the  
18 counties feel about these bills. I don't think we  
19 need to do this push and pull and ego thing or power  
20 that we need to maintain the power over these  
21 things. If it's best for the county to perhaps have  
22 more voice, then I think that's appropriate.

23 CHAIR GIOVANNI: Well, that's what the  
24 legislature and the governor will decide at the end  
25 of the day. And the counties will -- my expectation

1 is they'll represent their point of view. And I  
2 expect there are -- there are entities within the  
3 state, as Commissioner U'u said, that are  
4 sympathetic to those views and agree technically  
5 with those views.

6 COMMISSIONER CARR SMITH: Well, that's the  
7 reason we're having this conversation so that we can  
8 all weigh in, right?

9 CHAIR GIOVANNI: Yeah.

10 COMMISSIONER CARR SMITH: Yeah. So that's  
11 --

12 CHAIR GIOVANNI: Hopefully, we hear you.

13 COMMISSIONER CARR SMITH: Yeah.

14 CHAIR GIOVANNI: Yeah. And I want -- I  
15 want our executive director to hear you, as well, as  
16 he goes forward to represent. So anything else on  
17 this bill?

18 MS. KWAN: We have one testifiers.

19 CHAIR GIOVANNI: Okay. Let's hear that  
20 testifier.

21 MS. KWAN: Tara Rojas.

22 CHAIR GIOVANNI: Mr. Miyashida (sic),  
23 please hang on -- Hiyashida, hang on for one minute.  
24 Can you hang on for one? Huh? We're not voting,  
25 but we -- I'm going to lose a quorum, and I can't

1 even hear this. I need a quorum to hear this  
2 testimony.

3 MS. ROJAS: It's a really quick one.

4 CHAIR GIOVANNI: Huh? Oh, okay. Go. Go.  
5 Thank you very much.

6 MS. ROJAS: Okay.

7 CHAIR GIOVANNI: Who -- who wants to speak  
8 out?

9 MS. ROJAS: Yeah. So I just want to just  
10 say one really quick thing. I hear what you said  
11 and I -- yeah, I'm usually just also for the -- the  
12 county too. And that's just the whole thing about  
13 this. It just depends. Like, do the people sitting  
14 in the county seats making the decision have the  
15 right mindset?

16 And it's basically -- even at this, it's  
17 like that the people -- the people actually have the  
18 answers. Even technically I'm going to say this not  
19 even like the Land Use Commission or even like the  
20 county, it's like the people who just allow your  
21 pono and you have the right mindset, then that's the  
22 right decision.

23 So whether you're the state, which  
24 actually I'm not for -- but you know, the county,  
25 but you have actually people that are not fully pono

1 in the county because they're of the profit mindset,  
2 greed mindset, so again, whatever your position, you  
3 just have to be pono, decolonize your mind, and with  
4 that make your decision.

5 CHAIR GIOVANNI: Thank you very much.

6 MS. ROJAS: Mahalo.

7 CHAIR GIOVANNI: Any questions for Ms.  
8 Rojas? Hearing none, thank you.

9 So again, in summary, you -- you are to  
10 express a comment similar to --

11 MR. ORODENKER: SB36

12 CHAIR GIOVANNI: -- 36 and take no formal  
13 position one way or the other.

14 MR. ORODENKER: Understood, Chair.

15 CHAIR GIOVANNI: With that, I'm going to  
16 recess today's meeting and ask you to come back at  
17 10:00 tomorrow morning and we'll begin with matter  
18 number 11. Is that correct, Ms. Kwan, number 11 is  
19 next? We will see you tomorrow. Thank you very  
20 much. We are adjourned for today -- recessed for  
21 today.

22 (Meeting recessed at 2:32 p.m.)

23

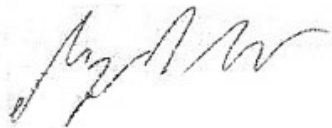
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CERTIFICATE

I, Abigail Bockholt, do hereby certify that the proceeding named herein was professionally transcribed on the date set forth in the certificate herein; that I transcribed all testimony adduced and other oral proceedings had in the foregoing matter; and that the foregoing transcript pages constitute a full, true, and correct record of such testimony adduced and oral proceeding had and of the whole thereof.

IN WITNESS HEREOF, I have hereunto set my hand this 20th day of February, 2025.



Abigail Bockholt